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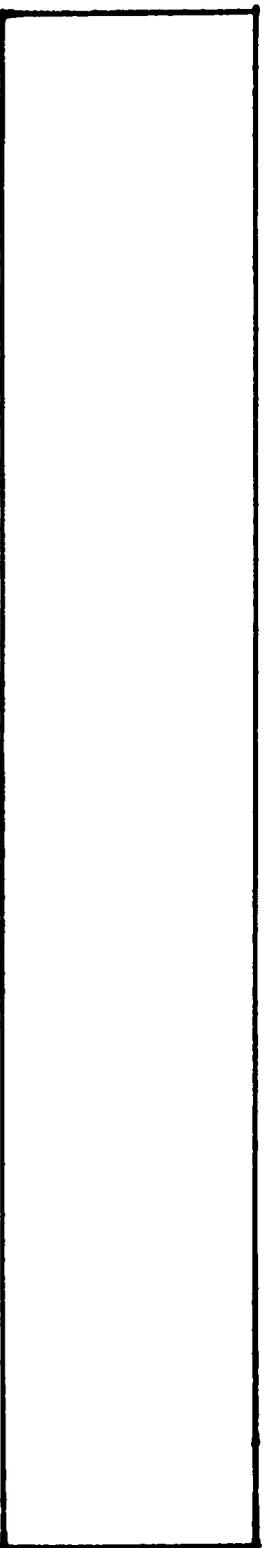
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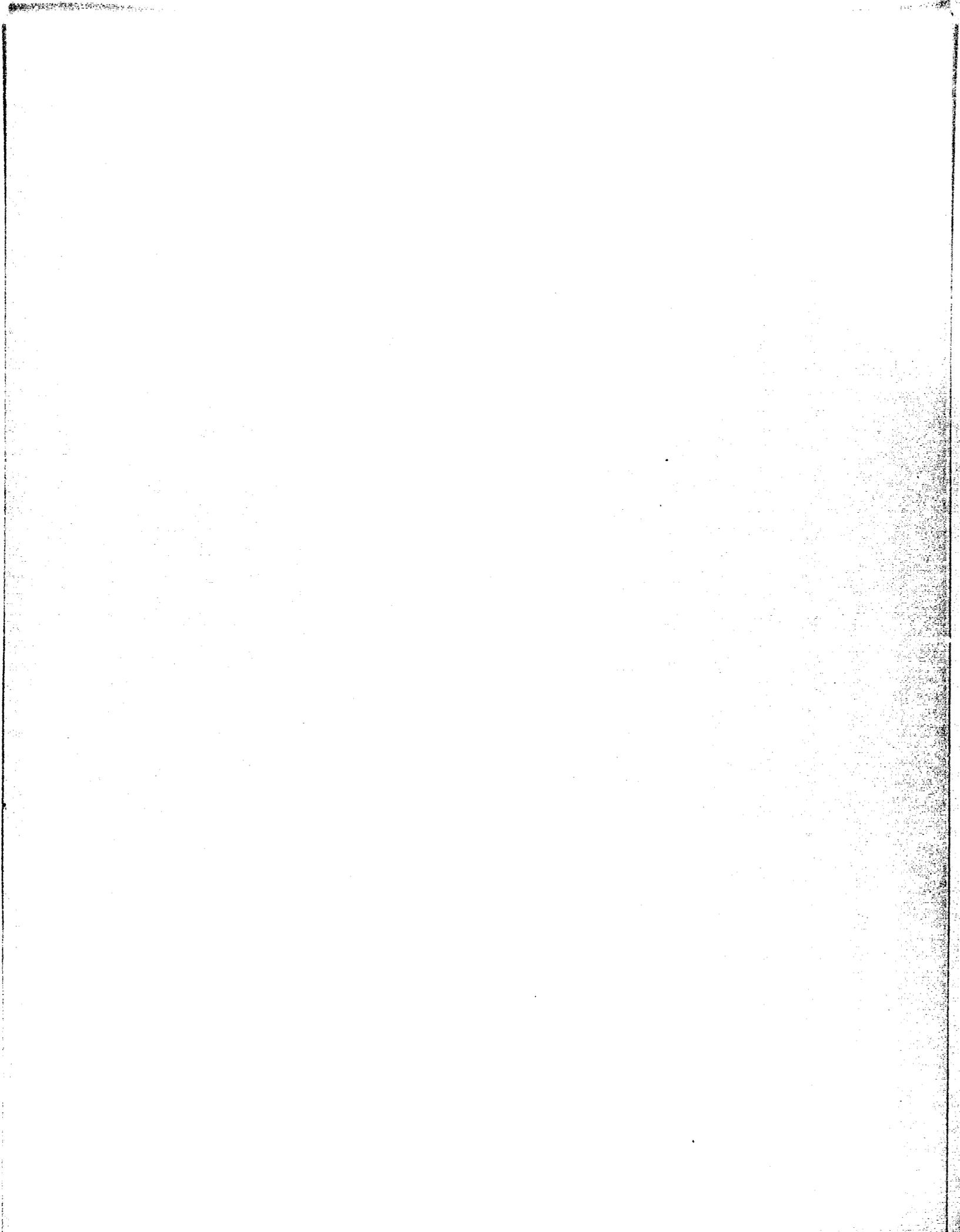
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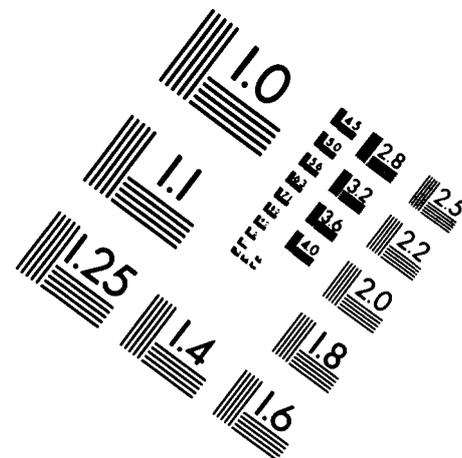
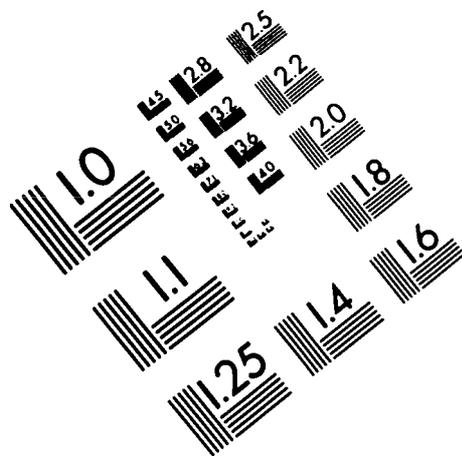
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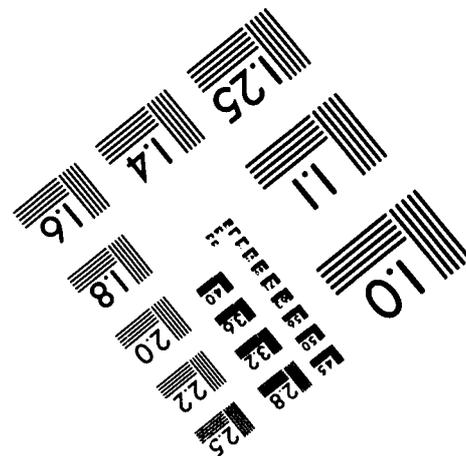
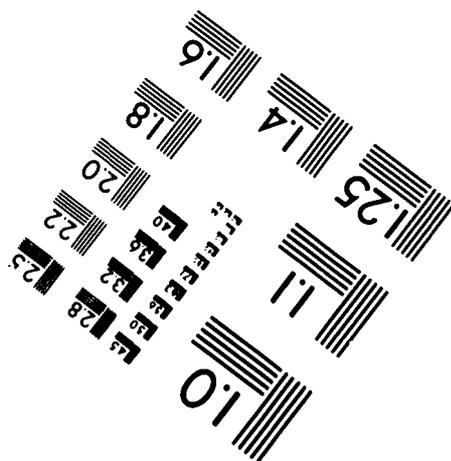
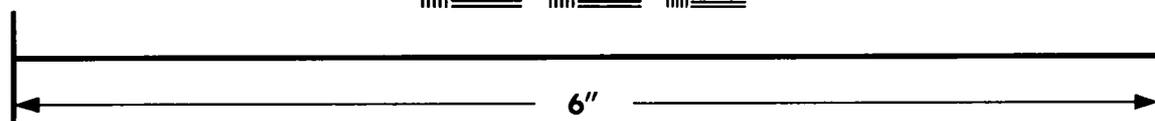
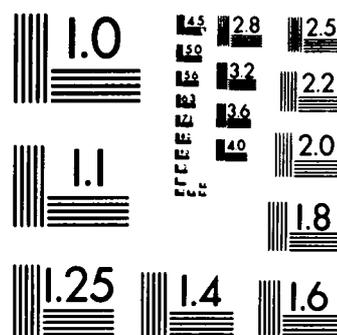
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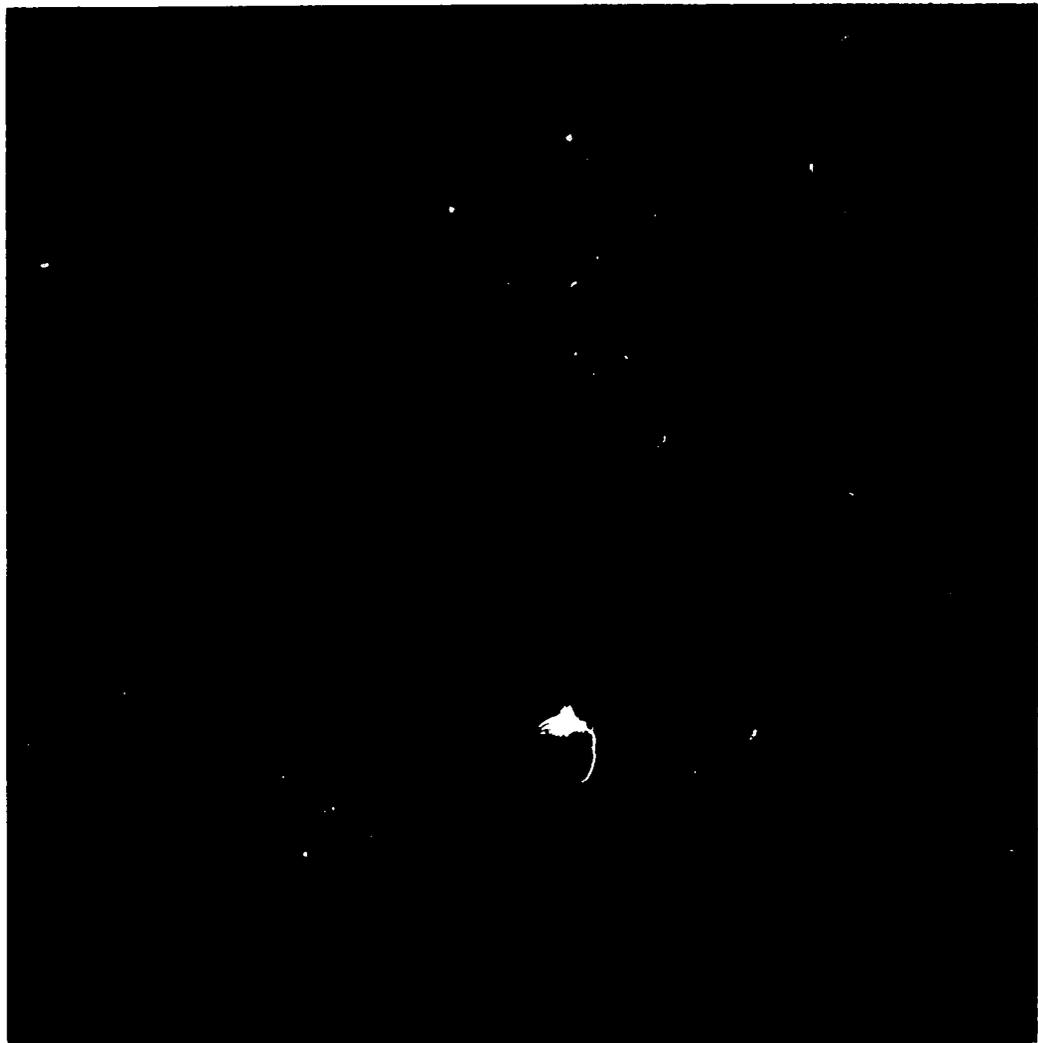




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I N D E X I N G D A T A

United Nations War Crimes Commission (UNWCC)
Member Governments, other National Authorities and
Military Tribunals -
PAG-3/2.3.1.: 352-354

Transcripts of Proceedings and Documents
of the International Military Tribunal for
the Far East (Tokyo Trials)

A verbatim account of the trial proceedings
in open court, arranged chronologically, with
consecutively numbered pages generally
preceded by contents.

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31 OCTOBER 1947

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31 OCTOBER 1947

I N D E X
of
EXHIBITS

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1 Friday, 31 October 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE R. B. PAL, Member
15 from India and HONORABLE JUSTICE B. V. A. ROLING, Member
16 from the Kingdom of the Netherlands, not sitting from
17 0930 to 1600; HONORABLE JUSTICE E. H. NORTHCROFT, Member
18 from the Dominion of New Zealand, not sitting from 1500
19 to 1600.

20 For the Prosecution Section, same as before.

21 For the Defense Section, same as before.

22 - - -

23 (English to Japanese and Japanese
24 to English interpretation was made by the
25 Language Section, IMTFE.)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

THE PRESIDENT: All the accused are present
except SHIRATORI, who is represented by counsel. We
have a certificate from the surgeon of Sugamo Prison,
certifying that SHIRATORI is ill and unable to attend
the trial today. The certificate will be recorded and
filed.

Colonel Smirnov.

COLONEL SMIRNOV: I have only a few questions
to the witness.

- - -

G I L F A N A. B A T A R S H I N, called as a
witness on behalf of the prosecution, resumed
the stand and testified through Russian inter-
preters as follows:

REDIRECT EXAMINATION

BY COLONEL SMIRNOV (Continued):

Q Mr. Witness, I asked you yesterday to mark
on the map gun positions of the Japanese troops which
you observed from the Zaozernaya Hill. Please do it.

Have you made a mark?

A Yes.

Q Make one more mark. Please mark with blue
arrows the direction of the penetration of the Japanese

troops to the Zaozernaya Hill on July 31, 1938.

1 A Yes, I have done as you directed.

2 Q Was the Japanese offensive against the
3 Bezjimjannaya Hill on July 31 conducted from the front
4 or from the rear?

5 A The offensive of the Japanese forces on the
6 night of July 31 began from flanks.

7 Q In other words, the Japanese were launching
8 an attack. Were they launching an attack from the
9 Soviet or from the Manchurian territory?

10 I.R. FURNESS: I object. The question is
11 obviously leading and inadmissible on that ground.

12 THE PRESIDENT: I do not think it is really
13 leading. Objection overruled.

14 Q Please answer my question, Mr. Witness.

15 MR. FURNESS: I did not hear. Did you say
16 it was upheld or overruled?

17 THE PRESIDENT: Overruled.

18 I.R. FURNESS: The question that says, "In
19 other words, the Japanese were launching an attack,"
20 was not leading?

21 THE PRESIDENT: Every leading question is
22 not objectionable. It all depends upon the context.

23 Q Please answer the following question,
24 Mr. Witness: Under what circumstances did the fighting
25

1 of July 31 take place, and in what way did it start?

2 A As I said previously, on July 31 at 12 o'clock
3 in the night -- that is to say, on the night of July 31 --
4 the Japanese under the cover of night crossed the
5 state border to the south of the Zaozernaya Hill. They
6 reached the rear of our positions on the Zaozernaya Hill
7 and from there launched an offensive.

8 In this offensive the Japanese used approximately
9 a part of their reinforced regiment which was concen-
10 trated in the Hamoki Village and around this place.
11 The second group of the Japanese forces crossed the
12 state border line to the north of the Zaozernaya Hill
13 and also started an offensive. And then other small
14 Japanese forces conducted an offensive from the front;
15 that is, other small Japanese forces attacked the crest
16 of the Zaozernaya Hill from the front.

17
18 Our border guards, being on their positions
19 and fully prepared to fight, engaged in battle. At
20 that time on the western slopes -- on the eastern slopes
21 of the Zaozernaya Hill, as I told you yesterday, there
22 were only thirty border guards. And our border guards
23 had the order of the commander of the outpost to hold
24 out to the last and not to leave the Zaozernaya Hill
25 until the approach of the reserve units of our border
guard detachment. After the fighting had started on

the eastern slopes of the Zaozernaya Hill, a platoon
1 of the field troops, thirty men strong, approached us.

2 Thus, on the Zaozernaya Hill there were at
3 that time sixty men: thirty border guards and thirty
4 regular army soldiers -- Soviet regular army soldiers.
5 And together with these thirty soldiers of the Soviet
6 Army, we, the border guards, kept fighting up to the
7 dawn; that is, until 5 o'clock in the morning. When
8 almost all of us were either wounded or killed, we
9 withdrew from the Zaozernaya Hill to the bank of the
10 Lake Khasan, and as we had no ways to retreat by land
11 because those ways were held by the Japanese, I, together
12 with the wounded commander of the outpost, Tereshkin,
13 had to swim across the Lake Khasan.

14 THE RUSSIAN MONITOR: I had to swim, together
15 with Lieutenant Tereshkin, across the Khasan Lake.

16 A (Continuing) At that time all that could swim,
17 swam across the Khasan Lake. At that time the Japanese
18 were firing at those who were swimming across the Lake
19 Khasan from artillery and trench mortars.
20

21

22

23

24

25

1 Q These are details which are of no interest
2 to the Tribunal.

3 Please tell us, was the post on the
4 Bezjimjannaya Hill a part of our outpost?

5 A The Hill Bezjimjannaya was not included
6 into our outpost, the Podgornaya. The Bezjimjannaya
7 Hill was included into the sector guarded by the
8 Podchikoriya Frontier Outpost.

9 Q And your post was a part of what frontier
10 guard outpost?

11 A I have told you already that the post on
12 the Zaozernaya Hill was a part of the Podgornaya
13 Outpost and had no connection with the Bezjimjannaya
14 Hill.

15 Q Under what circumstances did the clash
16 of July 29 occur, and how did it happen that the
17 Japanese were driven away from the Soviet territory
18 despite their numerical superiority?

19 THE PRESIDENT: We do not want to hear that
20 over again. You are making too much of this, Colonel.
21 This is the longest re-examination in the whole his-
22 tory of this court.

23 COLONEL SMIRNOV: I will soon conclude my
24 redirect examination, your Honor. I have two more
25 questions.

Q When was the Red flag hoisted on the

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2 to the Tribunal.

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4 Bezjimjannaya Hill a part of our outpost?

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8 Podchikoriya Frontier Outpost.

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12 the Zaozernaya Hill was a part of the Podgornaya
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20 over again. You are making too much of this, Colonel.
21 This is the longest re-examination in the whole his-
22 tory of this court.

23 COLONEL SMIRNOV: I will soon conclude my
24 redirect examination, your Honor. I have two more
25 questions.

Q When was the Red flag hoisted on the

1 Zaozernaya Hill?

2 A The Red flag was hoisted on the Zaozernaya
3 Hill after the unit of the regular Soviet Red Army
4 on August 6 drove the Japanese away from that hill;
5 that is, the Red flag was hoisted on August 6, in
6 the morning.

7 Q That is clear. Was this flag there on
8 July 28, 1938?

9 MR. FURNESS: I object, your Honor, on the
10 ground that this does not in any way arise out of
11 the cross-examination.
12

13 COLONEL SMIRNOV: Your Honor, I may qualify
14 the reasons for which I am asking this question. In
15 the testimony of defense witness MIURA, Kazuichi,
16 who is defense counsel in this trial, on page 22,896
17 of the record, there is an indication that as far back
18 as July 28, 1938, and in addition at the distance
19 of three and one-half kilometers from the town of
20 Sadzan, he saw a large Red flag on the Zaozernaya
21 Hill, and that flag was so large that it could be
22 clearly seen from the town of Sadzan. I consider it
23 highly improbable that the frontier post, which was
24 highly interested in the camouflage, should have
25 hoisted such a large flag.

~~THE PRESIDENT: That has nothing whatever~~

1 to do with the cross-examination of this witness.
2 The objection is upheld, and the question disallowed.

3 COLONEL SMIRNOV: My last question, your
4 Honor.

5 Q What arms were used by you against the
6 Japanese on July 29, when you assisted the frontier
7 guard patrol on the Bezjinjannaya Hill?

8 THE PRESIDENT: He has already told us what
9 arms they had. What they used I do not know, but
10 what does it matter, anyway?

11 MR. FURNESS: I submit, your Honor, it is
12 pure repetition.

13 THE PRESIDENT: Objection upheld.

14 COLONEL SMIRNOV: Your Honor, that concludes
15 my redirect examination, and if the defense has no
16 additional questions may I ask the Tribunal to
17 release the witness on the usual terms.

18 MR. FURNESS: I have one question.

19 RECROSS-EXAMINATION

20 BY MR. FURNESS:

21 Q How wide is Lake Khasan?

22 A At some places one kilometer wide; at some
23 places 50 meters.

24 Q Where did you swim across it? How wide was
25 it where you swam?

1 A About 50 to 60 meters.

2 MR. FURNESS: I wish also to call attention
3 to the fact that the map which the witness marked
4 already had on it the border as contended by the
5 Soviet.

6 THE PRESIDENT: He is released on the usual
7 terms.

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1 COLONEL SMIRNOV: Your Honor, I hope the
2 Tribunal will bear with me a moment. I would like
3 to offer the map marked by the witness. It was
4 not offered by our side.

5 THE RUSSIAN MONITOR: Correction, please:
6 "Will the Tribunal please excuse my omission."

7 COLONEL SMIRNOV: I would like to invite
8 the attention of the Tribunal to the fact that the
9 knowledge of the frontier was tested by means of a
10 blind map which was offered by the defense.

11 THE RUSSIAN MONITOR: "...the knowledge
12 this witness has..."

13 CLERK OF THE COURT: Photostatic copy of
14 map marked by the witness, being originally exhibit
15 2175, will receive exhibit No. 3374.

16 (Whereupon, the document above
17 referred to was marked prosecution exhibit
18 No. 3374 and received in evidence.)

19 COLONEL SMIRNOV: May the witness be re-
20 leased on the usual terms, your Honor?

21 THE PRESIDENT: I have already discharged
22 him on the usual terms.

23 (Whereupon, the witness was excused.)

24 COLONEL SMIRNOV: I call the next prose-
25 cution witness, Chernopyatko.

1 I V A N D. C H E R N O P Y A T K O, called as a
2 witness on behalf of the prosecution, being
3 first duly sworn, testified through Russian
4 interpreters as follows:

5 DIRECT EXAMINATION

6 BY COLONEL SMIRNOV:

7 Q State your name, surname, and occupation.

8 Observe the red light, please.

9 A Chernopyatko, Ivan Davidovitch, an officer
10 in the infantry.

11 Q What is your military rank?

12 A Major.

13 Q In what arm do you serve?

14 THE RUSSIAN MONITOR: "Corps."

15 A I serve in the Border Guard Corps of the
16 Ministry of Home Affairs of the U.S.S.R.

17 Q How long and in what capacity did you serve
18 in the Posiet Border Guard Detachment?

19 A From 1936 to 1939 I served in the Posiet
20 Border Guard Detachment, first, as a private, then
21 as a junior officer, and then as commander of a
22 platoon.

23 THE RUSSIAN MONITOR: "Non-commissioned
24 officer" instead of "junior officer."
25

Q For participating in what military operations

1 were you awarded the highest honorary title, the
2 Hero of the Soviet Union?

3 A The title of the Hero of the Soviet Union
4 was awarded to me for participating in the fighting
5 in the Lake Khasan area.

6 COLONEL SMIRNOV: May the witness be shown
7 exhibit 755.

8 (Whereupon, a document was handed
9 to the witness.)

10 Q Is it your affidavit? Is the exhibit 755
11 your affidavit?

12 A Yes, this exhibit is my affidavit.

13 Q Are the contents thereof true and correct,
14 and do you confirm them?

15 A Yes, I do.

16 COLONEL SMIRNOV: I shall not read those
17 parts of the affidavit which were not read into the
18 record. The exhibit was admitted as a whole.

19 The defense may now cross-examine.

20 THE PRESIDENT: Major Furness.

21 CROSS-EXAMINATION

22 BY MR. FURNESS:

23 Q I understand from your affidavit that through-
24 out the month of July you were in command of the
25 platoon in the Lake Khasan region, is that correct?

1 A Yes, I served in the outpost of Podgornaya
2 at that time. Most of the time I was in the Lake
3 Khasan area -- most of the time I was at the
4 Zaozernaya Hill.

5 Q And, when did you first arrive at the
6 Zaozernaya Hill? In June or July of that year?

7 A At the Zaozernaya Hill, I first arrived at
8 the beginning of July, 1938.

9 Q And, what was your rank at that time?

10 A Junior commander of a platoon.

11 Q Was that lieutenant, or doesn't it have
12 any such rank in the border guard?

13 A No, this is not a rank. This was simply
14 the post of a junior platoon commander.

15 THE RUSSIAN MONITOR: Correction: "No, this
16 is a rank of non-commissioned officer, and this rank
17 was called a junior platoon commander."
18

19 Q And, how many men were under you?

20 A I had approximately thirty men under me.

21 Q And, where was your post located with refer-
22 ence to Zaozernaya Hill?

23 A In general, I was attached to the frontier
24 guard outpost at Podgornaya to be under the command
25 of Tereshkin. That outpost had a permanent post at
the Zaozernaya Hill.

1 MR. FURNESS: Could I ask the Russian
2 interpreter to spell the name of that post?

3 THE RUSSIAN INTERPRETER: P-O-D-G-O-R-N-A-Y-A.

4 Q As I understand from previous testimony,
5 that post is several kilometers from the top of
6 Zaozernaya Hill, is that right? I am referring to
7 the main post under Tereshkin at Podgornaya.

8 A No, the Podgornaya Frontier Guard Outpost
9 was from the Zaozernaya Hill at a distance of about
10 six-seven kilometers.

11 Q That is south of the border marked "T", is
12 it not?

13 A Yes, that is southeast of the border marked
14 "T".
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1 Q Now, was Batarshin under you or was he
2 over you in the chain of command, or was he in
3 neither position?

4 A He was under Dubovoi, the platoon commander.
5 Dubovoi was a commander of a reserve platoon.

6 THE RUSSIAN MONITOR: "Dubovoi was a commander
7 of a reserve group of the detachment.

8 Q Did he then occupy the same rank that you
9 did under Tereshkin?

10 A Yes.

11 Q Now, as I understand it, the first time
12 that you went to Zaozernaya Hill this period was
13 in July; is that correct?

14 A Yes, at the beginning of July.

15 I am sorry, I want to say that I was at the
16 Zaozernaya Hill before.

17 THE RUSSIAN MONITOR: "I happened to be at
18 the Zaozernaya Hill before."

19 A (Continuing) When I graduated from the
20 school for non-commissioned officers, I was sent
21 for probation on the Zaozernaya Hill -- to the
22 Podgornaya Outpost. From that frontier guard outpost
23 I dozens of times went to the observation post which
24 was separated from the Zaozernaya Hill. From the
25 Podgornaya Border Guard Outpost I served until March,

1 then was put into the reserve unit -- was transferred
2 to the reserve unit. In July I was in the Zaozernaya
3 Hill the second time, I mean in the second period.

4 Q Was the outpost on Zaozernaya established
5 in July, 1938? Was it not?

6 A The post on Zaozernaya Hill was established
7 a long time ago.

8 Q Now, can tell us where the border of Korea
9 is with reference to Zaozernaya Hill?

10 A Yes, I can show that.

11 Q Tell us.

12 A I understood you that I will have to show
13 the borderline between Korea and the Soviet Union.

14 Q I am asking from Zaozernaya Hill where is
15 the border of Korea?

16 A The Korean border is along the Tumen-Ula River.

17 THE RUSSIAN MONITOR: "...is on the Tumen-
18 Ula River."

19 Q Across that river there is a railroad, is
20 there not?

21 A Yes.

22 Q Now, in the region of Lake Khasan and the
23 Zaozernaya Hill the residents are chiefly Korean by
24 race, are they not?

25 A I know nothing about it.

1 Q Do they speak Korean?

2 A Who are "they"?

3 Q The inhabitants of that region.

4 A Some of them do. I speak about the population
5 which is on our territory.

6 Q Don't a good many of the population on your
7 territory to the south of Podgornaya speak Korean?

8 A I can't say exactly that I know that there
9 are some inhabitants who speak Korean.

10 THE RUSSIAN MONITOR: "...but I know..."

11 Q There are Korean towns, are there not, to
12 the south along the Tumen- Ula River on the Soviet
13 side of the border?

14 A On the Soviet side of the border there are
15 some populated places.

16 Q Now, do you speak --

17 A (Continuing) There is a village of Podgornaya
18 and Gryady.

19 Q Do you speak, read or write Korean?

20 A No.

21 Q Do you speak, read or write Japanese?

22 A No.

23 Q Can you understand Japanese?

24 A No.

25 Q Could you describe for us the way the border

1 runs from border mark "T"? In what direction.

2 A From border mark "T" the border runs in a
3 northern direction along the crest of the Hill
4 Dlinnaya and then along the crest of a group of
5 hills which are situated between the Lake Khasan
6 and the River Tumen-Ula, further along the water-
7 shed of the Zaozernaya Hill and then thence to the
8 sandy ridge which is to the north of Zaozernaya Hill.

9 Q It was within that area that the fighting
10 took place, was it not?

11 A The fighting took place on July 29 on the
12 Bezjimjannaya Hill --

13 Q I just didn't want you to go any further --

14 A -- which is 300 meters to the east of the
15 borderline, that is, on our territory.

16 Q That first hill that you mentioned after
17 border mark "T" sounded like Dlinnaya. That is
18 between border mark "T" and the southern end of Lake
19 Khasan, is it not?

20 A This hill, which is called Dlinnaya by the
21 border guards, has its foot near the border mark "T" --
22 almost near the border mark "T".
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1 Q Is that running from Border Mark T? Does the
2 border run in a northeasterly, northwesterly, or due
3 north direction?

4 A As far as I know, the general direction is to
5 the north, but at the same time somewhat in the north-
6 eastern direction.

7 Q Now, the hill Zaozernaya is a long ridge, is
8 it not?

9 A Yes, it is.

10 Q And it is the Soviet view that the border ran
11 along that ridge, over the summit, and then further
12 along the ridge, and then turned down, is it not?

13 A What direction from the Zaozernaya hill do you
14 mean, the southern direction or the northern direction?

15 Q Regardless of the direction, it runs along the
16 ridge, does it not, as you were taught?

17 A Yes.

18 Q Now, Bezjimjannaya means a hill without any
19 name, does it not?

20 THE PRESIDENT: We do not want to hear that
21 again, and I can assure you I am speaking for every
22 Member of the Court.

23 MR. FURNES: I am just trying to bring out
24 that there are many hills in that region called that same
25 way in the Russian language, but if the Court does not

1 care to hear it, I will not press it.

2 Q Now, in your affidavit you testified that for
3 two weeks prior to the 29th of July 1938 you observed
4 Japanese troops concentrating in the area, an infantry
5 regiment strengthened by two artillery mortars and two
6 artillery divisions --

7 THE MONITOR: Is that right, Mr. Furness?

8 MR. FURNESS: An infantry regiment strengthened
9 by artillery and mortars.

10 Q There were two artillery divisions that you
11 saw?

12 A As far back as the beginning of July we ob-
13 served the arrival of the Japanese field troops, but
14 through the middle of July we observed the increased
15 concentration of Japanese troops on this sector.

16 Q But you say that you observed what I read to
17 you, did you not? That is, an infantry regiment
18 strengthened by artillery mortars and two artillery
19 divisions, is that correct?

20 You can answer that yes or no, I think.

21 A I can't say that because I didn't see the regi-
22 ment marching in columns, but those positions which were
23 held by the Japanese soldiers in those entrenchments
24 which were for artillery range, trench mortars, spoke
25 for themselves -- spoke about the strength of the

Japanese troops.

1 Q I want to tell you that I am reading from your
2 affidavit, and if you didn't observe it I can't under-
3 stand why you swore to your affidavit.

4 A I said that I didn't see the regiment in the
5 marching column, but judging by the -- headed by the
6 commander, but judging by the numerical strength and by
7 the positions which had been previously prepared, I can
8 assure the Tribunal that in that area was about a
9 regiment of Japanese troops, reinforced by artillery
10 and trench mortars.

12 Q How many men are there in a Japanese regiment
13 of infantry?

14 A A Japanese regiment has about three thousand
15 men.

16 Q Now, can you tell me what you meant when you
17 wrote in your affidavit that you saw two artillery
18 divisions?

19 COLONEL SMIRNOV: I have before me the Russian
20 text from which I see that the witness speaks not of
21 artillery divisions but of artillery battalions. If we
22 speak in terms of infantry, then artillery division is
23 artillery battalion, in fact.

24 THE PRESIDENT: We had better have that
25 cleared up, but I understand the English translation

Japanese troops.

1 Q I want to tell you that I am reading from your
2 affidavit, and if you didn't observe it I can't under-
3 stand why you swore to your affidavit.

4 A I said that I didn't see the regiment in the
5 marching column, but judging by the -- headed by the
6 commander, but judging by the numerical strength and by
7 the positions which had been previously prepared, I can
8 assure the Tribunal that in that area was about a
9 regiment of Japanese troops, reinforced by artillery
10 and trench mortars.

12 Q How many men are there in a Japanese regiment
13 of infantry?

14 A A Japanese regiment has about three thousand
15 men.

16 Q Now, can you tell me what you meant when you
17 wrote in your affidavit that you saw two artillery
18 divisions?

19 COLONEL SMIRNOV: I have before me the Russian
20 text from which I see that the witness speaks not of
21 artillery divisions but of artillery battalions. If we
22 speak in terms of infantry, then artillery division is
23 artillery battalion, in fact.

24 THE PRESIDENT: We had better have that
25 cleared up, but I understand the English translation

was supplied by the Russian prosecutor; is that so?

1 MR. FURNESS: I do want to object, too, your
2 Honor, to the prosecutor taking the opportunity, in
3 making his objection, to tell the witness what he
4 thinks the witness ought to mean.

5 THE PRESIDENT: We have his affidavit in Russian
6 and we can have it checked. It does not matter what
7 the witness says; we can look at his affidavit in
8 Russian.
9

10 COLONEL SMIRNOV: The original of the affi-
11 davit is in the Russian language, and is in the files of
12 the Tribunal.

13 THE PRESIDENT: We shall have it looked into
14 by some competent linguist.

15 Q When you reported the concentration of
16 artillery, how many batteries did you intend to report?

17 A Approximately three batteries were there.

18 Q Did you mean two battalions?

19 A About three batteries -- there were about
20 three batteries on a hill to the south from the
21 village Hamoka. Two batteries were observed on the
22 hill -- to the west of the hill which is to the north-
23 west of Zaozernaya hill, and one battery was on the
24 northern slopes of the hill which is to the northwest
25 of the Zaozernaya hill.

1 THE PRESIDENT: Major Furness, I have a note
2 here from a Member of the Tribunal who has experience in
3 these matters. He says it is better, if it really
4 matters, to talk in number of guns, as both batteries
5 and regiments of artillery have different numbers of
6 guns in different armies.

7 We will recess for fifteen minutes.

8 (Whereupon, at 1045, a recess was
9 taken until 1100 after which the proceedings
10 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Furness.

4 MR. FURNESS: I realize, your Honor, that
5 it is better to speak of guns but I am using the
6 language of this witness in order to find out what
7 he means.

8 BY MR. FURNESS (Continued):

9 Q You, of course, reported this concentration
10 of troops, stationing of artillery, mortars, and the
11 building of fortifications to your superior officer,
12 did you not?

13 A Yes, we reported daily.

14 Q And he reported it to the central authorities
15 presumably, did he not, the Posiet detachment?

16 A They had to report by all means.

17 Q What caliber were these guns that you
18 observed?

19 A These guns were about 70, 80 millimeters or
20 40 millimeters.

21 Q Were not all the guns which were on the
22 territory to the east of the River Tumen small caliber
23 guns, 37.5 or 40 millimeter guns?

24 A No, there were also guns of 70, 80 millimeters
25 in caliber.

1 Q Were not all such guns, if any were there,
2 on the other side of the River Tumen down near the
3 village of Podgornaya? I am referring now to guns
4 of over 40 millimeter caliber.

5 A I don't understand you. There were no guns
6 on our territory.

7 Q I mean on the opposite side of the river,
8 not your territory.

9 A I personally observed no artillery opposite
10 the frontier guard outpost Podgornaya.

11 Q I mean near the village.

12 A And I saw no artillery near the village
13 Podgornaya in the neighboring territory.

14 Q Were they not on the opposite side of the
15 river? When I say the opposite side I mean the side
16 furthest from Zaozernaya Hill.

17 A On the opposite side of the Tumen-Ula River
18 we observed the intensive movement of transport
19 vehicles and individual soldiers, but--

20 Q Now, I didn't ask you that. I asked you
21 one simple question and I wish you would answer it;
22 that is, were the guns, any guns over 40 caliber, on
23 the territory across the Tumen River from Lake
24 Zaozernaya? You can answer that yes or no and please
25 do so.

I meant Hill Zaozernaya, I am sorry.

1 A Opposite the Zaozernaya Hill there were
2 guns over 40 millimeters, the guns of 70, 80 milli-
3 meters in caliber.

4 Q And they were on the other side of the
5 Tumen River, were they not?
6

7 A On the opposite side of the river, that is
8 to say on the western bank of the river, we didn't
9 exactly observe the positions, the gun positions,
10 but we observed the movement of transport vehicles
11 and soldiers.

12 Q All right, if you don't want to answer it.
13 Now, you testified in your affidavit to the evacuation
14 of civilian population from the village of Khamoki,
15 K-h-a-m-o-k-i.

16 A Yes.

17 Q In other testimony before the Tribunal
18 this is referred to as the village of Hamoka,
19 H-a-m-o-k-a, and the village of Khomaku, K-h-o-m-a-k-u.
20 They are all different spellings for the same village,
21 are they not?
22

23 A I believe that these are names of the same
24 village.

25 Q And that village is about 700 meters from the
summit of Hill Zaozernaya?

1 A Yes, the eastern outskirts of this village
2 are approximately 700 or 800 meters from the summit
3 of the Zaozernaya Hill -- 900 meters.

4 Q Did you observe this concentration of troops
5 and this evacuation personally yourself?

6 A Yes, I did.

7 Q Where were you when you observed it?

8 A I was on the Hill Zaozernaya at the
9 observation point -- post.

10 Q How many meters from the border as claimed
11 by the Soviets?

12 A I was approximately a meter or a meter and
13 a half to the east of the border line between
14 Manchuria and the USSR.
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1 Q And you, of course, reported this evacuation
2 to your superior officer, and he reported it to the
3 headquarters of the Posiet Detachment.

4 A Yes, and besides, my commander was personally
5 on the hill and observed this personally. The com-
6 mander often was himself on the hill and often ob-
7 served himself.

8 Q That evacuation took place on the 21st of
9 July, 1938?

10 A We observed the beginning of July, but the
11 last stage of the evacuation was on July 24 - 25.

12 RUSSIAN MONITOR: Correction, please: In-
13 stead of "beginning of July, "first half of July."

14 Q Now, exhibit 753 indicates that the inhabi-
15 tants staged a demonstration of indignation on the
16 24th of July, three days later. Do you know anything
17 about that?

18 THE PRESIDENT: Major Furness, before he
19 answers, the Court in reading their maps would like
20 to know what is the English equivalent of a "verst."
21 What distance?

22 MR. FURNESS: I am informed, your Honor, that
23 it is approximately one kilometer.

24 THE PRESIDENT: Which is about three-fifths
25 of a mile, is that so, five eighths?

1 MR. FURNESS: Five-eighths of a mile, sir.

2 I didn't hear the witness' answer to my last
3 question, if he answered it.

4 THE PRESIDENT: It had better be repeated.
5 I interrupted.

6 A There was no demonstration in the Hamoka
7 village, but there was the staging of the demonstration
8 in that village.

9 Q Now, the building of the entrenchments and
10 fortifications and the evacuation of the civilian
11 population was all on territory within the borders
12 of manchukuo, was it not?

13 A The evacuation of the population was con-
14 ducted from the Manchurian territory to the Korean
15 territory across the Tumen River. The border line
16 between Manchuria and Korea runs on the Tumen-Ula
17 River.

18 Q The evacuation and the building of fortifi-
19 cations was all within the territory of Manchukuo, was
20 it not? Now, please answer that yes or no.

21 A Yes. The evacuation was conducted from the
22 manchurian territory into the Korean territory.

23 Q And the fortifications were all in manchur-
24 ian territory, were they not?

25 A Yes, the fortifications were on the manchur-

ian territory into the Korean territory.

1 Q And the fortifications were all in Manchurian
2 territory, were they not?

3 A Yes, the fortifications were on the Manchur-
4 ian territory, but we observed the movements of
5 troops on the Korean territory as well.

6 Q And it was obvious, was it not, that this
7 evacuation and building of fortifications was because
8 fighting was expected in that area?

9 A Yes, we expected that probably the fighting
10 will start in this territory.

11 Q And do you know anything about the killing
12 of a Japanese gendarme on the southern slope of
13 Mount Zaozernaya which is reported in exhibit 753,
14 which purports to set forth information received from
15 the Posiet Detachment?
16

17 A I know that the gendarme was shot on the
18 southeast slope of that hill.

19 Q Do you know that his name is MATSUSHIMA?

20 A No, I don't know that.

21 Q And were two other Japanese gendarmes cap-
22 tured about that time?

23 A I know nothing about the gendarmes, but I
24 know that two local residents were detained.

25 Q Now, in your affidavit you testify that

1 between the 18th and the 20th, at different times, the
2 Russian frontier guards captured two local civilians
3 with letters from the Khunchun Japanese Detachment
4 addressed to the chief of the 59th Frontier Detach-
5 ment demanding withdrawal of Russian forces from
6 Zaozernaya Hill. I will read to you parts of a report
7 which is included in exhibit 753, page 5.

8 COLONEL SMIRNOV: Evidently, the defense
9 counsel is going to read the same supplement to the
10 exhibit which was read yesterday. In our submission,
11 it is a waste of time; and besides, this exhibit has
12 no bearing whatever to the witness, and the report
13 cannot be identified by the witness as it was not
14 written by him.

15 THE PRESIDENT: He is entitled to do this as
16 he was in the case of the preceding witness.
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1 Mr. FURNESS: I submit to your Honor that
2 after the objection the witness may know exactly what
3 to say.

4 "On July 23, . . . at 5.00 hours a frontier
5 guard patrol 5 men strong under the section leader
6 Zhavgorodnin with a light machine gun, located on
7 our territory 4 Japanese and Manchurian soldiers with
8 a light machine gun. A cavalry platoon under Captain
9 Magalov was sent forward from the outpost.
10 Magalov discovered at the spot on our territory 120-150
11 meters from the frontier line where the transgressors
12 were seen one telegraph pole was pulled down and 14
13 meters of wire was carried away. There were revealed
14 footprints as well leading to the adjacent territory.
15 In this place white flag and a letter written in the
16 Korean language of the following contains:

17 "On July 16 a letter was sent in the district
18 of the long island:

19 "(1) Immediately answer this letter.

20
21 "(2) Immediately withdraw from our territory
22 in the Lake Khassan area, if not situation will become
23 grave.

24 "(3) The questions which recently arose
25 between us is becoming tense, we are always ready to
start negotiations on the frontier line of outpost

1 Khunchun. I want to know your opinion."

2 Do you know anything about this incident?

3 A Colonel Grebennik, commander of the detach-
4 ment, reported to me -- told me as an officer that
5 such an occurrence was somewhat to the north of the
6 Zaozernaya Hill.

7 THE RUSSIAN INTERPRETER: We spell the name
8 of the colonel, G-r-e-b-e-n-n-i-k.

9 Q Now, was this the same letter regarding which
10 you testified in your affidavit?

11 A This is the second letter.

12 Q But the gist of the letter which I have just
13 read to you is the same as the letter which you remem-
14 ber having been told about by this Grebennik?

15 A Yes, it is approximately so.

16 Q Now, did the Soviet frontier guards dig any
17 entrenchments, string any barb wire, or build any
18 other military fortifications in this area prior to
19 July 29?
20

21 A Prior to July 29 the border guards constructed
22 no fortifications there.

23 Q And there remained during that period only
24 30 border guards on that hill?

25 A Originally there were fewer border guards,
but since the 16th there were 30 border guards.

1 Q And they were the only military forces on
2 that hill?

3 A Yes.

4 Q Now, in your affidavit you testify on the
5 second page that on the 29th a clash occurred with an
6 adjacent Soviet frontier guard consisting of 11
7 frontier guards. Where were you at this time?

8 A At that time I was on the Zaozernaya Hill.

9 Q Near the summit?

10 A Yes.

11 Q About one meter or one meter and a half
12 from the border? Correct?

13 A No. When I observed the fighting -- this
14 fighting, we came down somewhat the eastern slope of
15 the Zaozernaya Hill.

16 Q Now, I read to you an account of a clash
17 which appears in exhibit 753 on page 4:

18 "According to the Posyet frontier guard
19 detachment report on July 29, 1938 at 16.00 hours
20 the Japanese and Manchurians launched a two group
21 offensive against a no-name hill, on the frontier
22 line two kilometers north of the hill 'Zaozernaya.'"

23 COLONEL SMIRNOV: I object to the reading
24 of this document, your Honor, as the document has
25 already been admitted in evidence and reading it is a

1 waste of time.

2 THE PRESIDENT: Can't you summarize, Major
3 Furness? We have every sympathy with that objection.

4 MR. FURNESS: I'll try to leave out the
5 parts which I don't care to stress.

6 "The first group - 50 men strong with a
7 light machine gun.

8 "The second group - nearly a company, at-
9 tacked a no-name hill 1000 metres northwest of the
10 hill 'Zaozernaya.' . . . Our frontier guard patrol
11 withdrew.

12 "A group from the garrison on 'Zaozernaya'
13 hill . . . marched out to support it.

14 "The group advancing from the 'Zaozernaya'
15 hill is engaged in a skirmish with the group of Japan-
16 ese soldiers on our territory.

17 "The observation is made difficult by dense
18 fog."

19
20 Is that an accurate report of the skirmish
21 as you observed it?

22 A No, this is a somewhat distorted picture of
23 the events. First of all, the no-name hill is not
24 to the northwest of the Zaozernaya Hill but to the
25 northeast.

1 THE PRESIDENT: You should be satisfied with
2 that. You are putting prosecution evidence to him,
3 aren't you, and you are getting these answers. Why
4 do you want to follow it up?

5 MR. FURNESS: I don't care to. It is testimony
6 of his own detachment, contemporary, not with any
7 trial in mind and not after testimony -- other testi-
8 mony -- has been submitted to this Tribunal.

9 THE PRESIDENT: We fully appreciate that. He
10 is, however, asked to recollect over eight or nine
11 years, I forget which, and here you have a document
12 written at the time by a responsible person and yet
13 you want to continue this cross-examination.

14 MR. FURNESS: I will let it go.

15 COLONEL SMIRNOV: I would like to call the
16 attention of the Tribunal to the fact that from the
17 title of this document it can be seen that this isn't
18 a report of his own detachment but a report of the
19 Chief of the People's Commissariat for Home Affairs,
20 Frontier Corps, in that district.

21 RUSSIAN MONITOR: Of the Far Eastern district.

22 RUSSIAN INTERPRETER: Of his district.

23 Q At any rate there was fog at that time, was
24 there not?
25

~~A There was fog in the dell between Zaozernaya~~

1 Hill and the Bezjimjannaya Hill.

2 Q Was it raining?

3 A Yes, it was. There was a slight rain; it was
4 drizzling.

5 Q Well, now, as I understand it you came up with
6 your detachment of four men, is that correct? I will
7 withdraw that question. I will withdraw the question and
8 substitute:

9 You ordered the detachment to go in support
10 of the men who were engaged in the skirmish with the
11 Japanese, is that correct?

12 A That was ordered by the commander of the out-
13 post, Tereshkin.

14 Q All right. Now going on to the night of the
15 31st of July, 1938, as I understand it about twelve
16 o'clock that night on a reconnaissance party you heard
17 Japanese speech.

18 A Yes, as you say.

19 Q What were they saying?

20 A As I don't know Japanese, I don't know what
21 they were saying.

22 Q How did you know it was Japanese at all?

23 A We were getting letters on behalf of the
24 Japanese commander, which letters contained demands
25 that we should withdraw from Zaozernaya Hill. The

1 troops under Japanese officers were opposite us. It
2 was quite clear that the Frenchmen couldn't appear
3 during the night.

4 Q Those letters were in Korean, weren't they?

5 A The Japanese were bossing the show both in
6 Manchuria and Korea and they didn't observe the border
7 line between Korea and Manchuria.

8 Q I asked you whether those letters were in
9 Korean, were they not?

10 A One letter was in the Korean language.

11 Q Now, I gather that even after this skirmish
12 on the 29th there were no reinforcements and no build-
13 ing of any fortifications on that hill, is that correct?

14 A Just as you say.

15 Q All right. Now you were wounded and went out
16 of action on the morning of the first of August, did
17 you not?

18 A It was on the morning of August the 31st.

19 Q You mean August 1, don't you?

20 A I was put out of action on the morning of
21 August the 31st.

22 THE PRESIDENT: July 31.

23 THE WITNESS: I mean July the 31st.

24 MR. FURNESS: The testimony of both witnesses
25 was that the action started about midnight of the 31st,

1 your Honor, so it would be the morning of August 1, I
2 take it.

3 THE WITNESS: The fighting began on the night
4 from July 30 to July 31.

5 COLONEL SMIRNOV: It seems to me that my
6 learned counsel is misquoting the evidence because in
7 all the evidence it is stated that the events occurred
8 on the night of July the 31st, from July the 30th to
9 July the 31st.

10 MR. FURNESS: Well, his testimony is that he
11 was on a reconnaissance party on the night of July 31,
12 1938, and at twelve o'clock that night he heard Japanese
13 speech, so I assume that it was after that that he was
14 wounded.

15 THE PRESIDENT: Well, we can read his affidavit.

16 MR. FURNESS: It appears on page 2.

17 COLONEL SMIRNOV: I have before me the Russian
18 text of the affidavit and it is said here in black and
19 white that the events did not occur during the night
20 of July the 31st but on the night of July the 31st.

21 THE PRESIDENT: Well, what is the difference?

22 RUSSIAN INTERPRETER: On July 30, 31.

23 RUSSIAN MONITOR: On the night between July 30
24 and 31.

25 THE PRESIDENT: We will adjourn until half

1 past one.

2 (Whereupon, at 1200, a recess was
3 taken.)

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AFTERNOON SESSION

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2 The Tribunal met, pursuant to recess, at 1330.

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4 MARGHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: With the Tribunal's per-
7 mission the accused OSHIMA and TOGO will be absent
8 from the courtroom for the whole of the afternoon
9 session conferring with their counsel.

10 General Vasiliev.

11 GENERAL VASILIEV: Your Honor, the prosecu-
12 tion would like to have the permission of the Tribunal to
13 submit on Monday or, after the completion of KOISO's
14 case, its views as to the affidavits of the Japanese
15 witnesses, prisoners of war, not produced before the
16 Tribunal. At the request of Mr. Chief Prosecutor,
17 Mr. Tavenner is preparing argument on this subject.
18 We are raising this question now because if the Tri-
19 bunal rules to hear the argument immediately after
20 the examination of Chernopyatko, we have to use the
21 time taken up by the remainder of the affidavit of the
22 witness for preparing the argument.

23
24 THE PRESIDENT: We will hear that argument
25 on Monday.

GENERAL VASILIEV: Thank you, your Honor.

1 MR. BLAKENEY: I should like to inquire
2 what the nature of the matter to be argued is and
3 whether any reply is expected from the defense.

4 THE PRESIDENT: We do not know what the
5 argument is before we hear it. We refer you to the
6 Chief Prosecutor.

7 MR. BLAKENEY: Well, may I simply point out
8 that according to our understanding this matter of
9 the affidavits of witnesses who have not been pro-
10 duced was closed by the order of the Tribunal entered
11 on the 17th of June, which order has been executed.

12 THE PRESIDENT: The Court has given no
13 intimation to the contrary. I explained the Court's
14 attitude when this matter arose before.

15 MR. BROOKS: Since I am following with the
16 presentation of KOISO's case, I wish the Tribunal
17 would consider trying not to interrupt the orderly
18 presentation of that defense by any long argument.

19 THE PRESIDENT: There is no present inten-
20 tion of interrupting KOISO's case.

21 MR. BROOKS: I understand that KOISO will go
22 on this afternoon; that is, his case will commence
23 this afternoon, with the very little amount of time
24 left.
25

THE PRESIDENT: How many items have you on

1 Q Now, the witness Tereshkin testified on
2 page 7781 of the record that only frontier guards
3 took part in this later fighting on Hill Zaozernaya,
4 and according to your affidavit these guards numbered
5 thirty men. I gather from that that even after the
6 fighting on the 29th no reinforcements were brought
7 up to defend the hill. That is correct, is it not?

8 A No, that is not correct.

9 COLONEL SHIRNOV: It seems to me that the
10 defense counsel must faithfully quote Tereshkin. It
11 is clear that Tereshkin was wounded on the 31st, him-
12 self, as is seen from his testimony, and he wasn't on
13 the battlefield after the 31st. There is nothing
14 about that in his testimony, and he couldn't give any
15 testimony concerning that battle.

16 MR. FURNESS: He assumed to give testimony,
17 and I really think that when these objections are
18 made the counsel for the prosecution should not state
19 the evidence so as to remind this witness what he
20 should testify. He was apparently wounded at about
21 the time that this man was wounded.

22 THE PRESIDENT: The objection is overruled.

23 Q That is correct, only Soviet frontier guards
24 took part in that fighting; is it not?

25 A No, that is not correct. During that night

1 Q Now, the witness Tereshkin testified on
2 page 7781 of the record that only frontier guards
3 took part in this later fighting on Hill Zaozernaya,
4 and according to your affidavit these guards numbered
5 thirty men. I gather from that that even after the
6 fighting on the 29th no reinforcements were brought
7 up to defend the hill. That is correct, is it not?

8 A No, that is not correct.

9 COLONEL SHIRNOV: It seems to me that the
10 defense counsel must faithfully quote Tereshkin. It
11 is clear that Tereshkin was wounded on the 31st, him-
12 self, as is seen from his testimony, and he wasn't on
13 the battlefield after the 31st. There is nothing
14 about that in his testimony, and he couldn't give any
15 testimony concerning that battle.

16 MR. FURNESS: He assumed to give testimony,
17 and I really think that when these objections are
18 made the counsel for the prosecution should not state
19 the evidence so as to remind this witness what he
20 should testify. He was apparently wounded at about
21 the time that this man was wounded.

22 THE PRESIDENT: The objection is overruled.

23 Q That is correct, only Soviet frontier guards
24 took part in that fighting; is it not?

25 A No, that is not correct. During that night

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one platoon of field troops came up to us and they
also participated in the battle.

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1 Q That was about thirty men, was it?

2 A Yes, thirty men.

3 Q So that if eleven men were killed or wounded
4 in the fighting on the 29th, fifteen to twenty killed
5 on the night of the 30th and 31st, that left approx-
6 imately twenty men on that hill, didn't it?

7 A No, that is not correct, because the frontier
8 guard patrol which was on the Bezjimjannaya Hill was
9 not a part of the patrol which was on the Zaozernaya
10 Hill. These were two separate patrols from two separate
11 outposts on the Bezjimjannaya Hill. On the Bezjimjannaya
12 Hill there was a patrol from the Podchikoriya Border
13 Guard Outpost and on the Zaozernaya Hill there was a
14 patrol from the Podgornaya Border Guard Outpost.

15 Q It left only sixty men then, is that what you
16 mean?

17 A There were sixty men on the Zaozernaya Hill.

18 Q All right. Now, did you at the time that you
19 gave your testimony in this affidavit, just before that
20 time or during that time, talk with the witness Tereshkin
21 regarding your testimony in this matter?

22 A No, I had not talked with Tereshkin.

23 Q Did you ever talk to Batarshin?

24 A No, before giving my testimony I had no talks
25 with Batarshin. He was suddenly summoned in the morning

1 of that date, and in the afternoon I was summoned.
2 Batarshin brought me to the building in which we gave
3 testimony, and I went into that building. I was sum-
4 moned to give testimony.

5 Q Did you discuss with him what your testimony
6 was to be and what his testimony was to be?

7
8 A No, we had no talk of that kind on that subject.

9 Q Did you come here from Russia to Tokyo with
10 Batarshin?

11 A Yes, we came together.

12 Q Did you at any time during that trip discuss
13 your testimony on this matter with Batarshin?

14 A No, when we were coming here we had no talks
15 on that subject, but when we came here we discussed
16 the matter in general terms, but not specifically.

17 Q And did you discuss with him or with anyone
18 else his testimony before this Tribunal yesterday?

19 A I asked him how the examination went, and he
20 told me that he had told in court all that he knew --
21 all that happened. There was no use for us to discuss
22 the subject in detail as we saw the same things our-
23 selves and observed them ourselves.

24 Q Curiously enough, that is just what he said,
25 in almost the same words.

1 THE PRESIDENT: That is a matter for comment.

2 MR. FURNESS: That concludes the cross-
3 examination, your Honor.

4 THE PRESIDENT: Colonel Smirnov.

5 COLONEL SMIRNOV: I have only three or four
6 questions to the witness.

7 REDIRECT EXAMINATION

8 BY COLONEL SMIRNOV:

9 Q Mr. Witness, defense counsel asked you a
10 question about a demonstration that was arranged in
11 the village opposite the Zaozernaya Hill, on the north-
12 west of the Zaozernaya Hill. Your reply was interrupted
13 by defense counsel. What kind of demonstration was it?

14 A Four men arrived at the village. They had
15 with them movie cameras. Probably according with their
16 orders, forty men were gathered -- thirty men were
17 gathered.-- Evidently according to their order, thirty
18 men were gathered that were men from the Hamoka Village.
19 All of them were gathered at a square which was clearly
20 seen from the Zaozernaya Hill. One of the men who came
21 to that village began to deliver a speech, waving his
22 hands and pointing in the direction of the Zaozernaya
23 Hill. At that time a film was made of it. Then, the
24 gathered men were ordered to march past the movie camera.
25 They were walking slowly and didn't wave their hands

1 and after that one of the men who came to the village
2 stopped them, and then he stepped forward and began
3 to show them how they should walk, how they should wave
4 hands and shout. After that, the gathered men did what
5 that man told them to do, obediently did that. That
6 was not a demonstration of indignation, but a revolting
7 demonstration.

8 Q I am not interested in that. That is your
9 comment.

10 The second question: Is it known to you when
11 the Soviet field troops were brought into action on
12 the Zaozernaya Hill?

13 A One platoon of field units was brought into
14 action on the night from the 30th of July to 31st of
15 July. But I don't think you can call it field troops.
16 The regular army units were brought in later. I don't
17 know when. I can only tell that on my way to the hospi-
18 tal in Vladivostok, I met columns of army units which
19 were quickly marching to the place of the clash in the
20 area of the Zaozernaya Hill.
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1 Q On what date was that?

2 A That was the 31st of July -- in the after-
3 noon of the 31st of July.

4 Q Replying to defense counsel's question, you
5 said that the post on the Zaozernaya Hill was
6 established prior to July, 1938. Can you tell us
7 when this post was established?

8 A I can't tell exactly when this post was
9 established.. When I was in that area in 1937 that
10 post had already been established -- in the beginning
11 of 1937 that post had already been established there,
12 and the veteran border guards told me that that post
13 had been established a long time ago, and they didn't
14 know exactly when.

15 Q And my last question. Were you on the
16 Zaozernaya Hill on July 11, 1938?

17 A Yes, I was on the Zaozernaya Hill on the
18 11th of July, 1938.

19 MR. FURNISS: I object, your Honor. This
20 does not arise out of cross-examination.

21 THE PRESIDENT: Well, if he had asked per-
22 mission before the cross-examination, I have no
23 doubt he would have received it, because other
24 witnesses were allowed to supplement their affidavits.
25 You must get our permission, of course. I do not

1 know whether the Court is inclined to give it. They
2 may not think it is worthwhile.

3 COLONEL SMIRNOV: May I explain why I have
4 asked that question?

5 THE PRESIDENT: That is what the Court
6 desires to hear.

7 COLONEL SMIRNOV: I don't know whether it
8 is proper to give this explanation in the presence
9 of the witness.

10 MR. FURNESS: If the Soviet prosecutor
11 doesn't know if it is proper, I am certain that it
12 is not.

13 THE PRESIDENT: Well, we are not bound by
14 your opinion, Major Furness.

15 I think it should be a matter that could
16 be explained without asking the witness to retire.
17 We could do that, if necessary.

18 There is no need to translate -- oh, you
19 will speak in Russian, of course.

20 COLONEL SMIRNOV: I'd like to refer to two
21 pages of the record, that is, 22,923 and 22,900 and
22 to some other documents.

23 THE PRESIDENT: You need not be so cryptic,
24 Colonel Smirnov. If this were a new matter alto-
25 gether, you would be entitled to take the witness

outside and prepare his affidavit.

1 I don't know why you can't allow him to
2 hear what you are going to say.

3 COLONEL SMIRNOV: It is not a new matter,
4 your Honor. Simply, in the defense evidence was
5 contained mention of some events that took place on
6 July the 11th, 1938, on the part of the Soviet
7 border guards on Zaozernaya Hill. In order not to
8 call this witness once more in rebuttal, and this is
9 an eye witness and his testimony is conclusive, I
10 want to ask him what happened on Zaczennaya Hill on
11 July the 11th.
12

13 MR. FURNESS: If your Honor please, if this
14 were a new matter, he would be required under the
15 rules of the Court to make an affidavit and submit
16 it to us in advance.

17 THE PRESIDENT: A majority of the Court is
18 against allowing the question to be put.

19 BY COLONEL SMIRNOW (Continued):

20 Q Mr. Witness, tell us: Had the post on
21 Zaozernaya Hill any characteristic features that
22 could be observed from Manchurian territory?
23

24 MR. FURNESS: If your Honor please, this
25 again is new matter and doesn't arise out of the
cross-examination in any way.

THE PRESIDENT: Objection allowed.

1 COLONEL SMIRNOV: In that case, your Honor,
2 I would like to have your direction on the following
3 subject. Two defense witnesses gave testimony on those
4 very important incidents in the given case. Both of
5 them were never on the Zaozernaya Hill themselves.
6 I mean TANAKA, Ryukichi, and MIURA, Kazuichi.
7

8 Thus, the defense was permitted to produce
9 two witnesses, neither of whom was present on the
10 Zaozernaya Hill as an eye witness. The present
11 witness is an eye witness who was on the Zaozernaya
12 Hill on the 11th of July and at a later date, too.

13 May we produce his affidavit without recall-
14 ing him in rebuttal, in order not to keep him for a
15 few months in Tokyo until the rebuttal starts?
16

17 THE PRESIDENT: That very point has been
18 placed before the Court already and decided against
19 you, Colonel Smirnov. You should have included it
20 in his affidavit originally.

21 COLONEL SMIRNOV: Yes, your Honor, but in
22 March of 1946 we were not in a position to know what
23 evidence the defense would produce, say, in May, 1947.
24 There is only one issue involved.

25 THE PRESIDENT: But, you had another witness
before this. You produced a supplementary affidavit,

and it was allowed to be read.

1 COLONEL SMIRNOV: We presumed that we would
2 be allowed to ask one question. We mean to ask only
3 one question.

4 THE PRESIDENT: On the same matter that has
5 already been decided? No, because we are not going
6 to reopen the decision.

7 You may be able to give this evidence in
8 rebuttal. I am not in a position to say.

9 COLONEL SMIRNOV: It means, your Honor,
10 that we have to recall -- to bring this witness here
11 from Moscow again.

12 THE PRESIDENT: The Court is well aware of
13 the consequences of any order it makes.

14 COLONEL SMIRNOV: Yes, your Honor. In that
15 case, I will ask another question which is within
16 the scope of the cross-examination.
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1 Q When was the first clash between the Japanese
2 and the Soviet troops in the area of the Bezjimjannaya
3 and Zaozernaya hills?

4 A The first clash between the Japanese forces
5 and the Soviet border guards occurred on July 29th
6 on the Bezjimjannaya Hill. The Bezjimjannaya Hill is
7 300 meters away from the State borderline to the
8 east of that State borderline.

9 Q All the rest the Court already knows, Witness.
10 Were there any other clashes besides the
11 killing of the gendarme prior to the 29th of July?

12 A No fighting clashes were there prior to
13 July 29, neither in the area of the Bezjimjannaya
14 Hill nor in the area of the Zaozernaya Hill.

15 Q Were there any troop movements or the
16 construction of fortifications on the western slope
17 of the Bezjimjannaya Hill, in general, or prior to
18 that time conducted by the Soviet forces?

19 MR. FURNESS: I submit, your Honor, this
20 is mere repetition and therefore I object to it.

21 THE PRESIDENT: Objection upheld.

22 COLONEL SMIRNOV: That concludes my redirect
23 examination, and, if the defense has no questions, I
24 ask that the witness be released on the usual terms.

25 THE PRESIDENT: He is released accordingly.

(Whereupon, the witness was excused.)

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COLONEL SMIRNOV: However, in connection with the statement made by defense counsel that according to Tereshkin's statement only border guards participated in the fighting after July 31, I invite the attention of the Tribunal there is nothing of the kind at page 7,782 of the record. And the testimony of Tereshkin was over on July 31 when Tereshkin was wounded.

That is all, your Honor.

THE PRESIDENT: Major Furness.

MR. FURNESS: If your Honor please, my reference to the record was, I think, page 7,781, not '82.

In connection with this testimony I wish to call the attention of the Tribunal to the following pages in the record: Testimony of the witness MIURA, pages 22,879 to page 22,902; the testimony of the witness TANAKA, Ryukichi, pages 22,713 to 22,728 of the record, pages 22,740 to page 22,751 of the record and pages 22,943 to 22,968 of the record. This is all of the testimony of May 21 and May 23, 1947.

As Mr. Blakeney has stated, the defense will ask leave to reopen its case to introduce evidence

1 in reply to this evidence which has been received
2 by the Court.

3 THE PRESIDENT: That position has been
4 fully covered in the Tribunal's announcements.

5 What is the next business?

6 MR. BROOKS: If your Honor please.

7 THE PRESIDENT: Captain Brooks.

8 MR. BROOKS: I believe that the prosecution
9 has an announcement on the first document on the
10 order of proof.

11 THE PRESIDENT: Mr. Sutton.

12 MR. SUTTON: May it please the Tribunal, the
13 prosecution has made an investigation to determine
14 whether or not the translator's note, which appears
15 in exhibit No. 2214 at page 15,817, lines 14 to 16
16 of the transcript, was correct. The translator's
17 note recites that the word "KOISO" should be
18 substituted for "ARITA."

19 Our investigation has disclosed that the
20 translator's note is erroneous, and that the word
21 "ARITA" appearing on line 14, page 15,817 of the
22 record is correct and that the portion of exhibit
23 No. 2214 which begins on line 14, page 15,817 with
24 the words, "Japan was convinced ARITA emphasized..."
25 and continuing to the end of the exhibit is the

1 report of a speech made by ARITA and no part of this
2 portion of the exhibit should be attributed to KOISO.

3 MR. BROOKS: In relation to exhibit 2214,
4 record page 15,813, I wish to direct the Court's
5 attention to the original of this exhibit which
6 consists of photostatic copies of captured German
7 documents.

8 The first page of this exhibit is apparently
9 with editorial guarantee and seems to be continued
10 on another page. However, notice what is printed
11 on top of page 2: "Raw Material. For personal
12 information only without editorial guarantee." Then
13 in brackets: "(Continuation from page blank)" without
14 naming any page. We submit there is no connection
15 between these two documents.

16 Then notice on 5th line from the bottom of
17 page 1 of the English copy of exhibit 2214 that
18 where previous sentences were all double spaced, from
19 here on it is all single spaced -- this is on the
20 original copy in German -- with the words "Japan was
21 convinced, ARITA emphasized, of the necessity of
22 further strengthening the Anti-Comintern Pact." (Line
23 14, record page 15,817)
24

25 This sentence expressing emphasis gives the
tone or refers to the previous statement being made

1 by AKITA but not being emphasized.

2 Also, as the prosecution has pointed out,
3 translator's note, sic, error for KOISO, as shown
4 in line 4 from the bottom of page 1 of exhibit
5 2214 in English does not appear in the original German
6 text and should be deleted from line 15 and 16 of
7 record page 15,817.

8 For the above reasons we move that the Court
9 strike and disregard that part of exhibit 2214 from
10 the record, starting with page 15,816 at line 15
11 to page 15,818, line 5.

12 THE PRESIDENT: The Court will consider
13 the application.

14 Do you wish to be heard, Mr. Sutton.

15 MR. SUTTON: The prosecution respectfully
16 submits that the only error is the one pointed out
17 by the prosecution.

18 MR. BROOKS: In answer, your Honor, I can
19 say a careful examination of the original German
20 document and the photostats will bear out my statement.

21 Mr. President and Members of the Tribunal,
22 we will now present the case of Kuniaki KOISO. We
23 do not desire to make an opening statement.

24 We call as our first witness KOISO, Kuniaki.
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1 K U N I A K I K O I S O, an accused, being first
2 duly sworn, testified through Japanese inter-
3 preters as follows:

4 DIRECT EXAMINATION

5 BY MR. BROOKS:

6 Q State your name to the Court.

7 A KOISO, Kuniaki.

8 MR. BROOKS: I ask that the witness be handed
9 defense document 2531.

10 (Whereupon, a document was
11 handed to the witness.)

12 Q Is that your affidavit?

13 A Yes.

14 Q Have you signed it and is it true and cor-
15 rect?

16 A I have some corrections to make -- three
17 places.

18 Q In the English or Japanese?

19 A I think both in the Japanese and English
20 texts. I refer to paragraph 2 of the first section --
21 numbered section.

22 THE INTERPRETER: Second paragraph under the
23 section numbered 2, first line of paragraph 2 in the
24 paragraph numbered 2, which begins "In order to read-
25 just at least nominally."

1 The witness asked correction by striking out
2 the word "nominally" and replacing it with the word
3 "equipment."

4 THE PRESIDENT: That doesn't read so well
5 either. It reads now "In order to readjust at least
6 equipment." It could be right.

7 THE INTERPRETER: Mr. President, in order to
8 make the English readable, the change in that one word
9 will require a change almost in the entire sentence.

10 THE PRESIDENT: We will leave it at that for
11 the time being.

12 MR. BROOKS: I might suggest, your Honor,
13 that some of these changes that will be made might be
14 made by an errata sheet later if the prosecution has no
15 objection to it. It will save a lot of time.

16 THE PRESIDENT: That is so. Are the other two
17 corrections extensive?

18 MR. BROOKS: I don't know, your Honor. I
19 didn't even know about this one.

20 THE INTERPRETER: The witness said: "The
21 next correction pertains to the numbered paragraph 21
22 on page 19 and going on to 20 of the affidavit."
23

24 Line 12 from the bottom of page 20, the date
25 August, 1939, should read May, 1939. That is correc-
tion No. 2.

1 The third correction: paragraph numbered 27,
2 page 26, line 2 from the bottom, "autumn in 1939"
3 should be revised to read "spring of 1939."

4 That is all in so far as corrections are con-
5 cerned.

6 Q Is it true and correct as corrected?

7 A Yes, true and correct.

8 MR. BROOKS: We offer defense document 2531
9 into evidence.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 2531
12 will receive exhibit No. 3375.

13 (Whereupon, the document above
14 referred to was marked defense exhibit 3375
15 and received in evidence.)
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1 MR. BROOKS: Omitting the formal parts, I now
2 commence reading defense document 2531, exhibit 3375:

3 "1. I was born on 22 March, 1880, and was
4 commissioned an infantry second-lieutenant in June,
5 1901. I was promoted to the rank of major general in
6 December, 1926.

7 "I was appointed Chief of the Military Affairs
8 Bureau of the Army Ministry in August, 1930, and pro-
9 moted to the rank of lieutenant-general in August, 1931.
10 I was assigned as Commander of the Korean Army from
11 2 December 1935 to 15 July 1938, and was promoted to
12 the rank of full general in November, 1937. I was
13 attached to the Army General Staff on 15 July 1938, and
14 in the same month was placed on the reserve list ending
15 my career as a military man.

16 "After retirement from the Army I had no further
17 connections whatever with military affairs and my
18 political activities were limited to the time and
19 duties of the offices to which I was appointed but which
20 I did not request but accepted only as a duty to my
21 country.
22

23 "2. After World War I the armaments of the
24 military forces became obsolete. As there were move-
25 ments for their reduction due to the pressure of public
opinion, the military improvement was not satisfactory

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12 the rank of full general in November, 1937. I was
13 attached to the Army General Staff on 15 July 1938, and
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17 connections whatever with military affairs and my
18 political activities were limited to the time and
19 duties of the offices to which I was appointed but which
20 I did not request but accepted only as a duty to my
21 country.
22

23 "2. After World War I the armaments of the
24 military forces became obsolete. As there were move-
25 ments for their reduction due to the pressure of public
opinion, the military improvement was not satisfactory

1 for the nation to wage any war and the condition of
2 military equipment, materiel and ammunition industries
3 grew alarming from the standpoint of national defense
4 requirements.

5 "In order to readjust at least equipment the
6 mobilizable strength of thirty-two divisions, which
7 heretofore had been the basis of the wartime fighting
8 strength, was reduced to twenty-eight divisions after
9 April, 1931. Moreover, about the time of the outbreak
10 of the Manchurian Incident in September of the same
11 year, a proposal was under consideration to further
12 reduce our peacetime strength of 17 divisions by re-
13 ducing and changing the Imperial Guard Division to
14 simply the Imperial Bodyguards and abolishing the two
15 divisions of Utsonomiya and Kyoto. This was the state
16 of the Army's strength which I learned through perfor-
17 mance of duties in the Military Affairs Bureau, and the
18 Military Equipment Bureau.

19 "After I assumed the post of Chief of the
20 Military Affairs Bureau I heard of the frequent
21 occurrence in China, particularly in Manchuria, of acts
22 committed by Chinese arising from anti-Japanese senti-
23 ment, of the infringement of Japan's vested interests,
24 of interference with the Japanese right of residence
25 and business, and of acts endangering their lives and

1 properties, and that as the result of these incidents,
2 feeling between Chinese and Japanese residents in
3 Manchuria was becoming daily more strained. In view
4 of the situation at home and abroad as stated above --
5 I do not remember the exact date -- I presented my
6 view to the War Minister and Vice-Minister on how to
7 avoid war, by adhering to the policy of patience and
8 forbearance in the face of any developments of situation
9 in China, especially in the Manchurian area.

10 "Being aware of the situation, both the
11 Minister and the Vice-Minister agreed with me. I ex-
12 pressed this view also to the Vice-Chief of the General
13 Staff, and I found him entertaining entirely the same
14 opinion.

15 "I also heard that because of such condition
16 of the military forces the Chief of the Army General
17 Staff KANAYA sent Major General TATEKAWA to Manchuria
18 in the middle of September, 1931 to transmit to the
19 Commander of the Kwantung Army the central army
20 authorities' intention of adhering to a policy of
21 patience and forbearance, regardless of developments."
22

23 THE PRESIDENT: This is a convenient break.

24 We will recess for fifteen minutes.

25 (Whereupon, at 1445, a recess was
taken until 1500, after which the proceedings

were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Brooks.

4 MR. BROOKS: Language section, when we get
5 to numbered paragraph 27, there will be a pause for
6 a brief statement at the end of paragraph 2 and para-
7 graph 3 of paragraph 27 in relation to those documents,
8 as requested by the prosecution.

9 THE PRESIDENT: We propose to adjourn at
10 twenty minutes to four to review the Military Police
11 under the command of Lieutenant Colonel Kenworthy.

12 MR. BROOKS: Continuing reading exhibit 3375,
13 starting at paragraph 3, page 3 of the English text:

14 "3. Some of the young officers of the armed
15 forces became extremely indignant over the condition
16 of armaments, and because they thought certain internal
17 political practices were disregarding the interests
18 and welfare of the nation some of these young officers
19 planned to effect administrative reforms with certain
20 civilians and some did individually do so. Actual
21 instances of their actions are the March and October
22 Incidents, which were successfully nipped in the bud,
23 and the May 15th and the February 26th Incidents.
24 Officers on the active list of army and navy had been
25 prohibited as a matter of policy from engaging in

political activities in such a way.

1 "Dr. OKAWA and his followers resented
2 corrupt party politics and wanted to reform the
3 internal political system by giving birth to a
4 cabinet under the premiership of General UGAKI, who
5 was then War Minister. Dr. OKAWA wanted General
6 UGAKI to take an active post but the plan they
7 formulated was reckless and it met with General
8 UGAKI's refusal and they were thus obliged to abandon
9 the plan.
10

11 "This was the so-called March Incident,
12 and had no relation with the Manchurian Incident to
13 my knowledge.

14 "In relation to the above, I was requested
15 by Dr. OKAWA, whom I met for the first time, to make
16 arrangements for him to see General UGAKI, so that he
17 could inform the General of his plan. After asking the
18 nature of the plan that he wanted to suggest to the
19 General, I voiced my disapproval of arranging for an
20 interview to suggest such a reckless plan and advised
21 the Doctor to abandon it. I recall that the Chief of
22 the Appointment Section of the Army Ministry at that
23 time, Colonel OKAMURA, Yasuji, was present at this
24 discussion. Dr. OKAWA, however, refused to listen to
25 my advice, and persisted in his request to see the

1 War Minister. I said to him, if he handed me his plan
2 in writing, I could report it to General UGAKI. As
3 I expected, on reading this document, General UGAKI
4 flatly rejected the plan and I informed Dr. OKAWA of
5 this which ended our discussion thereon. Prior to
6 this, when I had asked Dr. OKAWA for the plan in
7 writing and he answered that he would submit it after
8 consulting and making it out with others, I inquired
9 who 'the others' were. He did not reveal their names,
10 but, this is when I learned that they were young
11 officers of the Army General Staff.

12 "As I was in a position as chief of the
13 Military Affairs Bureau which required me, by virtue of
14 my office in the War Ministry, to discourage military
15 men from such action, I advised Dr. OKAWA to abandon
16 this plan and to sever his connections with such
17 young officers as were concerned with it, explaining
18 that officers were prohibited from engaging in such
19 political activity.
20

21 "Besides making a report to higher officials
22 I also informed the Vice-Chief of the General Staff
23 and suggested that he should warn the young officers
24 of the General Staff not to approach or to associate
25 with OKAWA in such matters. It was at this time that
I was told by the Vice-Chief of the General Staff that

1 there were indications that Army firecrackers had
2 been delivered to OKAWA's faction by these young
3 officers. I called his attention to the necessity for
4 having them returned immediately in order to avert
5 trouble for such army personnel and to protect the
6 prestige of the army.

7 "Later I heard that Dr. OKAWA was still
8 intending to put his plan into practice. Having thought
9 that such an eventuality would bring trouble for the
10 young officers of the General Staff, who had been
11 connected with Dr. OKAWA, I requested Marquis TOKUGAWA,
12 Yoshichika, in whom Dr. OKAWA was said to have had
13 confidence, to persuade Dr. OKAWA to abandon his
14 reckless plan and return the firecrackers to the
15 young officers of the Army General Staff; with the
16 result that Marquis TOKUGAWA succeeded in having
17 Dr. OKAWA abandon the plan he had formulated.

18 "However, I received information that despite
19 the request of the officers of the Army General Staff,
20 the firecrackers had not been returned and that they
21 remained as ever in the possession of the OKAWA
22 faction. I personally and the War Ministry had nothing
23 to do with such articles, but since the effort made by
24 the officers of the Army General Staff to recover
25 was insufficient I was afraid trouble might crop up in

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3 officers. I called his attention to the necessity for
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19 the request of the officers of the Army General Staff,
20 the firecrackers had not been returned and that they
21 remained as ever in the possession of the OKAWA
22 faction. I personally and the War Ministry had nothing
23 to do with such articles, but since the effort made by
24 the officers of the Army General Staff to recover
25 was insufficient I was afraid trouble might crop up in

1 the future to the detriment of the Army's prestige,
2 if the matter were left alone. So, I saw Dr. OKAWA
3 and requested him to return the firecrackers. Although
4 he said he would do so, he took no immediate steps to
5 keep his promise.

6 "Therefore in order to hasten the matter I
7 again requested Marquis TOKUGAWA to persuade Dr. OKAWA
8 to return the firecrackers. As through Marquis
9 TOKUGAWA's efforts final arrangements were made to
10 return the firecrackers, I informed the Army General
11 Staff of the fact. Later I received information that
12 the officers of the General Staff received from
13 OKAWA's faction the firecrackers in their original
14 form and number.

15 "Thus, the so-called March Incident was
16 brought to an end.

17 "Prosecution witnesses, UGAKI, Kazushige
18 at court record pages 1608 and 1627, TOKUGAWA, Yoshi-
19 chika at court record pages 1441 to 1446, and
20 SHIMIZU, Konosuke at court record pages 1402 to 1404
21 and 1406 to 1408, and 1410 to 1411, in their testi-
22 monies have made a few misstatements, but these were
23 cleared up to some extent by cross-examination, and in
24 light of their testimony, regardless of the few mis-
25 statements, I believe the Tribunal will find my

statement to be true.

1 "4. With regard to the October Incident,
2 there is in the interrogatory of the defendant
3 HASHIMOTO, record pages 15,676 and 15,677, a statement
4 that would lead the Court to misunderstand and to think
5 that I was a participant in the planning of that Inci-
6 dent. This is a mistake. I had no connection what-
7 soever with the October Incident.

8 "From what I learned in the course of the
9 disposal of the Incident as a part of my official
10 duty, it was the plan in October, 1931, of some young
11 officers of the General Staff, to effect a renovation
12 of the domestic organization of Japan. Before the
13 plan took any concrete shape, being still in the stage
14 of occasional conferences, however, comparatively
15 moderate elements in the group secretly informed
16 IMANURA, Hitoshi, the Second Section Chief in the Army
17 General Staff, of the attempt. The information was
18 conveyed by him to NAGATA, Tetsuzan, Chief of the
19 Military Affairs Section of the War Ministry, and by
20 the latter to me.

21 "Upon receiving this information I at once
22 reported the matter to the War Minister and the Vice
23 Minister. The Minister of War requested TOYAMA,
24 Commander of the gendarmerie, to take measures to
25

1 confine immediately and hold incommunicado all the
2 young officers concerned, who were then confronted
3 with their improper activities and were severely
4 reprimanded for their indiscretions, and told to dis-
5 band and discontinue such activity. This put an end
6 to the incident.

7 "The truths of the March and October Incidents
8 are just as I have said before and what is stated in
9 court exhibit 179F is a false report and the statement
10 in court exhibit 2177A is also a mistake. Also I
11 had no connection whatsoever with the May 15th Inci-
12 dent mentioned in court exhibit 2178A.

13 "In the interrogatory of Dr. OKAWA, concern-
14 ing the 15th May Incident, he mentions the March
15 Incident and makes it appear as if in deciding upon
16 his actions he took into consideration the future of
17 Manchuria. However, when OKAWA called on me in con-
18 nection with the March Incident, wanting to arrange an
19 appointment with General UGAKI, his explanation did not
20 include even a single mention of policies towards
21 Manchuria.
22

23 "5. In connection with exhibit 2202A the
24 invitation extended by the War Ministry to the leading
25 members of the Manchurian Railway Company on 30 June
1931, this was a courtesy banquet given by the War

1 Ministry by way of a return invitation to the
2 leading members of the Manchurian Railway Company,
3 and no talks were made discussing politics pertaining
4 to Manchuria or Mongolia.

5 "6. The outbreak of the Manchurian Incident
6 was not due to any plan or intrigue on the part of
7 any Cabinet member or officials of my acquaintance as
8 far as I know, and I never saw or heard of any such
9 plans for aggression as alleged by the prosecution,
10 and I never conspired with anyone to do any of the
11 acts charged in the Indictment.

12 "7. On the night of 18 September 1931,
13 when the Mukden Incident broke out, I was asleep at
14 my home in Azabu. Although I do not recall the exact
15 hour, I think it was between 2:00 and 3:00 a.m. on
16 the 19th that a telephone call came from the War
17 Ministry and I was for the first time informed that
18 around 10:30 p.m. on the 18th some Chinese soldiers in
19 Manchuria had blown up the railway line near Liutiaukou,
20 to the north of Mukden station, and that fighting had
21 ensued between the Chinese troops and the Japanese
22 garrison. Summoned by the War Minister, I arrived at
23 his official residence at about 6:30 a.m. and found
24 that Vice-Minister of War SUGIYAMA was unable to show
25 up on account of illness. Pursuant to an order given

1 by the War Minister, I requested Secretary KUSHIBUCHI
2 to inform by telephone those government offices con-
3 cerned, and give them an outline of the Incident, and
4 to request the Premier, through the Cabinet Chief
5 Secretary, to convene an emergency cabinet meeting.
6 I then conferred with the War Minister and both of us
7 were of the opinion that handling of the situation
8 should be carried out so as to localize the Incident and
9 to restore the peace.

10 "Then since summons came from the Vice-Chief
11 of the Army General Staff to the Vice Minister of War
12 for consultation at his office, and as the Vice Minister
13 was ill and absent, the War Minister sent me in his
14 stead. I met Vice-Chief of Staff NINOMIYA at about
15 7:00 a.m. in the Chief of the Army General Staff's draw-
16 ing room and we deliberated on the following points,
17 which we suggested to the government: namely, that
18 the best measure was to adhere to a policy of localiza-
19 tion and thus stabilize the Incident; that although
20 the Chinese side may be responsible for the outbreak
21 of the Incident, our position should be defensive;
22 that the conditions for the settlement of the Incident
23 should not be determined by the Army alone; that if the
24 Chinese acts were based on an anti-Japanese policy,
25 this may give rise to the outbreak of another incident,

1 and the Kwantung Army would then have to face much
2 more provocation; and therefore taking advantage of
3 this situation a proposition should be made to the
4 Chang Hsueh-liang regime requesting them to observe
5 existing treaties and rights acquired thereunder.

6 "I recall that when the Vice-Chief of Staff
7 and I held this conference, HAMURA, head of the
8 Second Section, was there also. When the War Minister
9 notified me after the Cabinet meeting that the
10 Cabinet had decided on making the best of the
11 situation according to a policy of localizing the
12 Incident, I reported this to the Vice-Chief of the
13 Army General Staff. The War Minister then sent a
14 telegram which the Military Affairs Bureau drafted
15 to the Commander in Chief of the Kwantung Army,
16 stating that the Imperial Japanese Government wished to
17 exert its utmost towards the localization of the Inci-
18 dent, and that therefore they desired the Kwantung
19 Army to keep this in mind.

20 "On the same day, a telegraphic report was
21 received from the Commander in Chief of the Korean
22 Army that in view of the urgent Manchurian situation
23 he was preparing to dispatch a mixed brigade to
24 Manchuria. The War Minister requested the Chief of
25 Army General Staff to wire that this measure should

1 he suspended and he did as he was requested. We
2 found out on September 21, however, that the brigade
3 had already crossed the border on its own initiative
4 despite the instructions of disapproval of the Chief
5 of the Army General Staff, so this matter was taken
6 up for discussion at the cabinet meeting of September
7 22.

8 "The cabinet finally gave ex post facto
9 approval. Since the Imperial sanction had been ob-
10 tained expenses of the Army had to be met and were
11 paid out of the second reserve funds.

12 "Towards the end of September it was decided
13 that since the main strength of the Kwantung Army was
14 concentrated along the railway zone and since the
15 railway, as well as lives and properties to be pro-
16 tected extended over such a vast area, the War Minister,
17 after consultation with the Chief of the Army General
18 Staff, indicated to the Commander of the Kwantung Army
19 that although it was necessary to station the Japanese
20 patrol detachments along the line connecting Kirin,
21 Changchun, and Chengshiatun, and along the line of the
22 Taliabo, the Japanese troops should not advance either
23 to the north or to the west of these lines. At the
24 same time, the Kwantung Army units close to Chinchow
25 should be withdrawn within the lines designated. On

26 November a disturbance broke out in Tientsin.

1
2 The Commander in Chief of the North China Army re-
3 requested the Commander in Chief of the Kwantung Army
4 to send reinforcements, on account of insufficient
5 troop strength, for the protection of the Japanese
6 community and for the maintenance of peace and order
7 in foreign settlements, and on the 27th of the same
8 month, the Commander in Chief of the Kwantung Army
9 dispatched a unit as far as Koupangtzu for the purpose
10 of reconnoitering the Chinchow area, in preparation
11 for transportation of troops. However, the War
12 Minister requested strict observance of the lines
13 designated, in accordance with the policy of the
14 Cabinet for localizing the Incident, and the Chief of
15 the Army General Staff, in compliance with this
16 expressed desire, ordered the Commander of the
17 Kwantung Army to withdraw the unit to the east of the
18 Taliaho River.

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"8. On 10 December, 1931 the WAKATSUKI
1 Cabinet resigned en bloc, and a new cabinet was
2 organized on the 13th under the premiership of INUKAI
3 with Lt. General ARAKI as War minister. Prior to
4 this, diplomatic negotiations had been started in an
5 attempt to prevent further clashes between the Japan-
6 ese and Chinese troops near Chinchow.
7

"However, settlement had not been reached
8 even as late as December, 1931, and on 23 December,
9 1931 a battle took place between the units of the
10 Kwantung Army and those of the Regular Chinese Army,
11 because the latter advanced from Chinchow and attacked
12 the units of the Kwantung Army that were engaged in
13 the suppression of the soldier bandits near Tienchuang-
14 tai. The Regular Chinese Army evacuated Chinchow,
15 however, and the Kwantung Army effected a bloodless
16 entry into the city on January 3, 1932 and took
17 charge of maintaining public peace and order there.
18

"In January, 1932 Japanese and Korean resi-
19 dents in Harbin and some Chinese officials and civil-
20 ians were repeatedly asking the Kwantung Army for
21 despatch of rescue forces and the Kwantung Army had
22 reported that they would like to comply with these
23 requests but the central army authorities had been
24 withholding approval of the requests made by the
25

1 Kwantung Army with respect to the necessity of rescu-
2 ing Harbin, but the disordered and confused situation
3 of the city was such that it made the central army
4 authorities believe that such action was necessary,
5 and they finally gave their approval to the request
6 made by the Kwantung Army Commander. Whereupon, the
7 Kwantung Army Commander dispatched necessary troops to
8 maintain peace and order in Harbin, and on 5 February,
9 1932 the troops drove back the soldier-bandits there.

10 "9. Following the outbreak of the Shanghai
11 Incident at the end of January, 1932, the necessary
12 troops were dispatched to Shanghai areas, but later,
13 on 5 May, 1932, a truce was concluded and part of the
14 Army units were transferred to Manchuria and the rest
15 were returned to Japan.

16 "10. The personnel, including myself, of
17 the War Ministry endeavoured at all times under the
18 leadership of the War Minister to check the aggrava-
19 tion of the situation in Manchuria on the basis of a
20 policy of non-aggravation. But unfortunately the
21 Incident developed as it did which was unavoidable and
22 those concerned therewith did their best to meet the
23 situation in accordance with the above policy.

24 "11. Next concerning the Army budget. Ex-
25 hibit 74 refers to the period 1942 after the official

1 organization of the War Ministry was revised, and it
2 was by virtue of this revised official organization that
3 the Chief of the Military Affairs Bureau would assist
4 the War Minister in matters concerning control of the
5 budget, but before this revision the Chief of the
6 Intendance Bureau was responsible for the supervision
7 of all business related to the Army budget, and the
8 Chief of the Military Affairs Bureau had neither
9 authority, control, nor responsibility in that con-
10 nection, which was the case during the time I held
11 such office. Reference is made to record page
12 27,717, line 17 where the witness states, "Control of
13 the budget" as a duty of the Chief of the Military Af-
14 fairs Bureau came in later years as a revision.

15 "12. The independence of Manchukuo was de-
16 clared in March, 1932. Consequently, the new regime
17 made various requests of Japan, and the Japanese
18 Government was pressed by the necessity of examining
19 its policies in order to meet with those requests
20 economically and politically. Though the policy, at
21 large, to support and uphold the development of Man-
22 chukuo was roughly established, I recollect, that up
23 to the time when I left my position in the War Minis-
24 try in August, 1932 most of the concrete measures had
25 not yet been decided.

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2 was by virtue of this revised official organization that
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21 large, to support and uphold the development of Man-
22 chukuo was roughly established, I recollect, that up
23 to the time when I left my position in the War Minis-
24 try in August, 1932 most of the concrete measures had
25 not yet been decided.

1 "13. In exhibit 227, I, as Vice-War minister,
2 received an advice from the Chief of Staff of the
3 Kwantung Army dated June 4, 1932 with respect to the
4 taking over of the Dairen Customs, and I reported to
5 the War Minister about it. But as at this time the
6 government had not decided a policy concerning customs
7 and as it was a matter which could not be carried out
8 by the Army alone no action was taken thereon.

9 "14. I will now explain the use made of the
10 funds mentioned in exhibit 2210. The sum of 20,000
11 yen turned over to me as Vice Minister of War on 4
12 July, 1932, was handled under my supervision by the
13 Senior Adjutant of the War Ministry and the Secretar-
14 iat Pay-master and was used to defray expenses for
15 social occasions held at the minister's official resi-
16 dence and in the ministry itself, for incidental ex-
17 penses of various bureaus and sections of the minist-
18 ry and to pay persons employed temporarily.

19 "15. I was transferred to Chief of Staff
20 of the Kwantung Army on 8 August, 1932 and therefore
21 I turned the sum of 18,500 yen, given to me as Vice
22 Minister, which is stated in Court exhibit 2211,
23 over to Lt. General YANAGAWA, Heisuke, my successor
24 in office, and I do not know how it was used.

25 "16. The sum of 1,970,000 yen, turned over

1 to me under my name when I was Chief of Staff of the
2 Kwantung Army on December 27, 1933, as stated in ex-
3 hibit 2213, was actually handled by the Senior Adju-
4 tant and the Pay-master of the Superintendance Depart-
5 ment under the supervision of the Vice Chief of Staff
6 in charge, in accordance with the order of the Kwan-
7 tung Army Commander, and I was merely to supervise
8 its use.

9 "The expenditures during the two months up to
10 the time of my departure from the Kwantung Army was
11 appropriated to incidental expenses at the Kwantung
12 Army Commander's official residence and for the vari-
13 ous divisions, independent brigades, independent gar-
14 rison units, gendarmerie and special service organiza-
15 tions under the Army, but the largest amount was re-
16 tained by the Headquarters.

17 "During the tenure of my post as Chief of
18 Staff, the sum which had been allotted to the various
19 units and special organs was spent for obtaining
20 information and especially for payment for collected
21 weapons from potential and de facto bandits. The
22 amount for use under this system for collection of
23 these weapons included sums which were due but had
24 not been paid as well as sums which were to be paid
25 in the future.

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1 to me under my name when I was Chief of Staff of the
2 Kwantung Army on December 27, 1933, as stated in ex-
3 hibit 2213, was actually handled by the Senior Adju-
4 tant and the Pay-master of the Superintendance Depart-
5 ment under the supervision of the Vice Chief of Staff
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7 tung Army Commander, and I was merely to supervise
8 its use.

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10 the time of my departure from the Kwantung Army was
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18 Staff, the sum which had been allotted to the various
19 units and special organs was spent for obtaining
20 information and especially for payment for collected
21 weapons from potential and de facto bandits. The
22 amount for use under this system for collection of
23 these weapons included sums which were due but had
24 not been paid as well as sums which were to be paid
25 in the future.

1 "This was the use made of these funds during
2 the time I was Vice-Minister of War and Chief of Staff
3 of the Kwantung Army, and I can only say that the way
4 the army paid out secret service funds was such that
5 no individual use whatever could be made of it.

6 "17. I was appointed Chief of Staff of
7 the Kwantung Army on August 8, 1932 and arrived at
8 Mukden on the 26th of the same month, accompanying
9 the new Kwantung Army Commander, General MUTO, Nobuyo-
10 shi, who is dead, and who concurrently held the post
11 of Ambassador Plenipotentiary. General MUTO as Am-
12 bassador Plenipotentiary signed the Japan-Manchukuo
13 Protocol on 15 September, 1932, whereby Japan recog-
14 nized Manchukuo and the duty of joint-defense was
15 assigned to the Kwantung Army in order to secure the
16 integrity of Manchukuoan territory as well as to
17 maintain law and order there.

18 "The State of Manchukuo, in its declaration
19 of independence issued on 1 March, 1932, announced
20 that the four North-eastern Provinces under the rule
21 of Chang Hsueh-liang were within its territory.
22 Therefore, it was necessary for the Kwantung Army in
23 cooperation with Manchukuo to make efforts for restor-
24 ing law and order in Jehol Province. But it was more
25 urgent to restore peace and order in the area east of

1 the Taliho River, especially along the South Manchur-
2 ian Railway where dwelled multitudes of Japanese and
3 Manchurians. Therefore, the Army Commander continued
4 to drive out the remnants of the Ting Chao, Li Tu,
5 Ma Chan-shan armies making efforts to restore law and
6 order in the area east of the Taliho River along
7 the railway and the main roads, with the cooperation
8 of the Manchukuoan Army and the local self-government
9 and police organizations, and also carried out the
10 'Pao Chiao' system at the same time which was adopted
11 since it subsequently ensured the maintenance of law
12 and order.

13 "Those bandits or potential bandits who sur-
14 rendered weapons received compensation therefor, and
15 measures were also taken for giving employment to
16 those among them who were without employment or farms
17 to return to; and many were employed as laborers by
18 the National Road Bureau of the Manchukuoan Govern-
19 ment.

20
21 "General Ting Chao visited General HUTO, Com-
22 mander of the Kwantung Army, at Chanchung to express
23 his gratitude for the treatment accorded him and his
24 army, and swore to do his utmost for Manchukuo in the
25 future. I understand he was later given important
work by the Manchukuo Government.

1 "At the end of 1932 Su Ping-Wen, who was
2 given a military post at Kulumbair after the State
3 of Manchukuo was formed, rebelled against Manchukuo,
4 leading troops under his command, and many Japanese
5 residing in that district were killed or imprisoned.
6 Therefore, the Kwantung Army was faced with the
7 necessity of using force for the immediate protection
8 of the residents. However, fearing that rash action
9 might bring about further harm, the Kwantung Army
10 asked the Soviet Union to rescue the Japanese resi-
11 dents. As a result, through the good offices of the
12 Russian Authorities the Japanese residents were
13 accommodated into Soviet territory, then transported
14 to Vladivostok on the Amur Railway, and from there
15 sent safely to Japan. Subsequently, the Commander
16 of the Kwantung Army dispatched a unit to that dis-
17 trict and peace and order was restored after defeat-
18 ing Su's forces.
19

20 "A part of Chang Hsueh-liang's troops who
21 left Chinchow and Lungliao was received by Tang Yu
22 Ling, the Governor of Jehol Province and, joining
23 the powerful bandits of the Jehol area, they estab-
24 lished a base in Jehol province as a stronghold from
25 which to carry out insidious activities in South
Manchukuo.

1 "So General MUO, the Commander of the Kwan-
2 tung Army, advised Hsieh Lu Sheng, a representative
3 sent from Jehol Province and secretary of Tang Yu-
4 ling, that the Kwantung Army's policy was to restore
5 peace and order in Jehol as peacefully as possible,
6 and that it was necessary for the Governor of Jehol
7 Province to provide for the peaceful participation
8 of Jehol province and its cooperation with Manchukuo
9 in maintaining peace within the borders, and in secur-
10 ing the welfare of the inhabitants of Manchukuo in
11 the cause of justice and humanity, and for the
12 maintenance of friendly relations and suggested that
13 he so advise Tang Yu-ling. But Tang Yu-ling did not
14 accept this advice and started a campaign to disturb
15 the peace of Manchukuo in collusion with bandits and
16 therefore the Japanese and Manchukuoan troops were
17 obliged to take action for restoring peace and order
18 in Jehol province.
19

20 "After peace was restored in Jehol province
21 the Commander of the Kwantung Army ordered all the
22 units to defend the line of the Great Wall and the
23 borders but not to penetrate into North China and
24 Chahar areas. Every time they were attacked, all
25 the units drove back the defiant attacks of Chinese
 units from their line of defense by way of defense.

1 "By the end of April, Chinese groups increased
2 their strength and their attacks became persistent.
3 Against these some Kwantung Army units driving away
4 the enemy pursued them into the North China area.
5 However, they withdrew thereafter to the line of the
6 Great Wall in accordance with the order of the Kwantung
7 Army Commander.

8 "However, the Chinese Army further increased
9 its strength and repeated regular persistent attacks
10 against the line of the Great Wall following the
11 Kwantung Army units withdrawing toward the line. At
12 this juncture, units of the Kwantung Army by order
13 of the Army Commander, counter-attacked and pursued
14 the Chinese troops as far as the line of the Chi-Ho
15 River in early May, to prevent the enemy from repeat-
16 ing its obstinate attacks.

17
18 "The Kwantung Army Commander strictly
19 ordered all units to stop in the area east of the
20 line of the Chi-Ho River, considering the fact that
21 the entry of the Japanese forces into the Peiping-
22 Tientsin area might lead to aggravation of the situa-
23 tion. The Chinese Army proposed a truce on 25 May,
24 and the Kwantung Army Commander accepted this offer,
25 and, on 31 May, 1933, a truce was concluded at TANGKU
putting an end to the Manchurian Incident.

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1 "I was relieved of the post of Chief of Staff
2 of the Kwantung Army on 5 March 1934, and my duties
3 in Manchuria covering a period of twenty months were
4 associated with staff work under the direction of the
5 Commander of the Kwantung Army. During this time
6 I was not in command of troops, and it is needless to
7 say that I had no power whatsoever to command any
8 troops, because I was only a staff officer responsible
9 only for administrative matters in the Kwantung Army
10 Headquarters.

11 18. It is stated in Exhibit 230, record
12 page 2902, that I sent a communication to the Vice-
13 Minister of War, concerning 'The Program of Guidance
14 for Manchukuo,' dated 3 November 1932. The document
15 showed the opinion of the commanding officer on the
16 spot and was prepared by his order in reply to an
17 inquiry from the War Vice-Minister and was made accord-
18 ing to the draft plan of the Second Division of the
19 General Staff. It was a reply in document form written
20 by order of the Army Commander expressing his opinion
21 on the matter inquired about in reply to an inquiry
22 from the War Vice-Minister and was not made on my own
23 initiative and was not my own opinion.

25 "All assistance to Manchukuo derived from
the Kwantung Army while I was Chief of Staff was carried

~~out under orders of higher authority issued in accord-~~
1 ance with the Japan-Manchukuo Protocol, (exhibit 440,
2 court record page 5035), and its annexed documents
3 for restoration and maintenance of peace and order,
4 for protection of transportation, communications,
5 industry and the residents of Manchuria, in view of the
6 promotion of the happiness of the Manchurian people,
7 and all such activities as far as I knew were car-
8 ried out at the initiative and on the request and with
9 the cooperation of the government organizations of
10 Manchukuo itself.

11 "19. After I left my duties in Manchukuo on
12 5 March 1934 I did not serve in any capacity, either
13 officially or privately, which had any direct connec-
14 tion with the Manchurian or China problems. However,
15 I felt that the outbreak of the China Incident and
16 its continuation without cessation was most regret-
17 table. On occasions when I talked to friends I ad-
18 vanced the view, purely as a private individual, that
19 the most appropriate measure to save the situation
20 would be to request Great Britain and the United States,
21 the two countries which had close relations with
22 China, to mediate a Sino-Japanese peace. But little
23 attention was paid to my view. For five months, from
24 April to August of 1939, and again for six months,
25

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21 the two countries which had close relations with
22 China, to mediate a Sino-Japanese peace. But little
23 attention was paid to my view. For five months, from
24 April to August of 1939, and again for six months,
25

1 from January to July of 1940, I served as Minister for
2 Overseas Affairs, but I had no connection with any
3 work related to the China Incident. The capture of
4 Changsha occurred during the time I was still the
5 Governor-General in Korea, and I had no connection
6 with it whatsoever. As for the battles at Hengyang,
7 Kweilin and Liuchow, all of them were actions taken
8 from the standpoint of tactical operations and were
9 matters outside of my responsibility.

10 "20. From December 1935 until 15 July 1938 .
11 I was Commander of the Korean Army.

12 "Now, with regard to the Lake Khasan Inci-
13 dent, (court record pages 22,742, 22,743 and 22,751),
14 Witness TANAKA, Ryukichi, testified in relation to
15 the concentration of the 19th Division. But this is
16 his imagination and differs with the facts. The actual
17 situation was that in view of the movement of Soviet
18 troops in the vicinity of Chang-Kufeng the commander
19 of the 19th Division, first of all, had taken precau-
20 tionary measures on the bank of the Tumen River by
21 stationing there a part of the division strength, and
22 then in order to enable the taking of appropriate and
23 corresponding defensive measures in the face of changes
24 that might take place in the situation in the future,
25 requested my permission as Commander of the Army on

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1 14 July 1938 to concentrate the main strength of the
2 division on the bank of the Tumen River. Before giving
3 any order I immediately wired to the Chief of the Gen-
4 eral Staff and War Minister for instructions from the
5 Central Command in Tokyo in relation to taking such
6 action.

7 "However, before receiving the reply to my
8 inquiry, I received orders the next day, 15 July 1938,
9 transferring me to Tokyo. The telegram from the
10 Chief of the General Staff in reply to my inquiry
11 arrived 16 July 1938, and was delivered to General
12 NAKAMURA, my successor as Commander of the Korean Army.
13 I think that the new commander who succeeded me dis-
14 posed of this matter on the basis of these telegraphic
15 instructions, as the order for concentration was not
16 issued by me.

17
18 "At the time of the Khalkin-Gol Incident I
19 was Minister for Overseas Affairs, and the nature of
20 my duties had no connection whatever with such matters
21 in Manchuria, and I did not participate in any dis-
22 cussions concerning problems related to the U.S.S.R.
23 or Outer Mongolia.
24
25

1 "21. According to Court Exhibit 2214 with
2 regard to the Tri-Partite Pact it is alleged that
3 ITAGAKI on the 8th of May, 1939, and I on the 9th gave
4 an interview to a reporter of the Domei News Agency.
5 Part of the statement in this exhibit relating to my-
6 self is a mistake; ARITA, the Minister of Foreign
7 Affairs may have made the statement therein but I did
8 not. It was quite common for the Minister of Overseas
9 Affairs and Minister of Foreign Affairs to be confused
10 by those not well versed in their respective duties. I
11 do not recall having given an interview, to such a
12 reporter. However, assuming that I had given such an
13 interview, I certainly would not have given out any
14 statement as alleged in this exhibit, for from the
15 nature of my duties as Minister for Overseas Affairs, I
16 possessed no authority or responsibility of any kind
17 with regard to diplomatic or military matters, and I
18 was not allowed to make any public statement in such
19 a form.
20

21 "Furthermore, while I was in office as Over-
22 seas Minister in the HIRANUMA Cabinet, I only knew
23 vaguely that the problem of the Tri-Partite Pact was
24 being discussed at a five-ministers' conference
25 composed of the Prime Minister, the War Minister, the
Navy Minister, the Foreign Minister, and the Finance

1 Minister.

2 "During this period when I held office as the
3 Minister for Overseas Affairs in the HIRANUMA Cabinet,
4 my views on this subject were never requested or ex-
5 pressed at any Cabinet meetings when I was present or
6 on any other occasion that I can recall, except one,
7 when in May, 1939, I received a request from the War
8 Vice-Minister Lieutenant General YAMAWAKI, through a
9 messenger, asking me to help restore friendly relations
10 between the War and Navy Ministers who had opposite
11 views concerning the contents of the conclusion of the
12 alliance. To this request, I replied, in a note which
13 I entrusted to the messenger, that although I was an
14 outsider, I believed it would be best for Japan to put
15 off the conclusion of an alliance with Germany and Italy.
16 Therefore, although I was an outsider in the Cabinet
17 with regard to this questions, I also expressed in reply
18 my anti-alliance view to Prime Minister HIRANUMA on this
19 occasion in view of the circumstances in which I had
20 replied to the War Vice Minister of my opposition there-
21 to, and thereafter, I never entered any other discus-
22 sions thereon.

24 "22. Court exhibit 523, record page 6174, a
25 telegram sent to Berlin by German Ambassador Ott con-
cerning the results of a discussion he had with me, is

1 Minister.

2 "During this period when I held office as the
3 Minister for Overseas Affairs in the HIRANUMA Cabinet,
4 my views on this subject were never requested or ex-
5 pressed at any Cabinet meetings when I was present or
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19 occasion in view of the circumstances in which I had
20 replied to the War Vice Minister of my opposition there-
21 to, and thereafter, I never entered any other discus-
22 sions thereon.

24 "22. Court exhibit 523, record page 6174, a
25 telegram sent to Berlin by German Ambassador Ott con-
cerning the results of a discussion he had with me, is

1 full of statements that are false. It is true, that, on
2 20 June 1940, in response to a request made by TOKUGAWA
3 Yoshitomo, for his friend, Ambassador Ott, I talked with
4 the Ambassador, whom I had not met before, for about
5 half an hour with TOKUGAWA acting as our interpreter.
6 I did not invite Ambassador Ott to call on me, and this
7 meeting had no connection whatever with the defendant,
8 MUTO, whose name was not even mentioned in our talk, and
9 at this short interview Ambassador Ott did most of the
10 talking and explained his views, through the interpreter,
11 namely, that the conclusion of a German-Japanese
12 alliance and a non-aggression pact between Japan and
13 the U.S.S.R. would be of benefit to the economic develop-
14 ment of Japan in the southwestern Pacific area, and in
15 this connection suggested the economic value of French
16 Indo-China and the Netherlands East Indies. It is
17 entirely contrary to the fact to say that I put to him
18 a question concerning the attitude of Germany in case
19 Japan started military actions in these regions, or that
20 I would gladly promote the idea of the Ambassador, to
21 have Japan attack the Philippines and Hawaiian Islands
22 and hold in check the United States in the Pacific.
23 This would call for an important utterance concerning a
24 matter about which I, as Minister for Overseas Affairs
25 had absolutely no authority and no concern, and it was

1 a matter about the contents of which I was not author-
2 ized to express my attitude or my opinion to anyone and
3 in my position as Overseas Minister, I could not think
4 of speaking even as my private opinion, especially, to
5 a foreign Ambassador, whom I met then for the first
6 time. The telegram of Ambassador Ott to the effect
7 that I said that there was a possibility of concluding
8 a non-aggression pact between Japan and the Soviet Union
9 further proves that the Ambassador made such a false
10 statement for the purpose of realizing his own view to
11 make Japan follow the course he had planned and was not
12 aware and was confused in his knowledge of the functions
13 of the Overseas Ministry and the Foreign Ministry.
14 Further, the Ambassador's observation that I belonged
15 to the KONOYE faction was wrong, because at that time
16 I knew Prince KONOYE only by name. This can be seen
17 from court exhibit 1278, page 10 and page 11 of the
18 KIDO Diary, in which Prince KONOYE states that he did
19 not know me, and this proves the fact."

20 THE PRESIDENT: We will adjourn now until half
21 past nine on Monday morning.

22 (Whereupon, at 1540, an adjournment
23 was taken until Monday, 3 November 1947, at
24 0930.)
25

3 NOVEMBER 1947

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Of
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3203		3376	Excerpt from Exhibit No. 3038-B - Letter dated 25 July 1931 from the Commander of the Military Police to the War Minister re Study on the Organization of MP Force in Manchuria		32302

Monday, 3 November 1947

- - -

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE R. B. PAL, Member
from India, not sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI and TOGO who are represented by
5 counsel. We have a certificate from the prison
6 surgeon of Sugamo certifying that SHIRATORI is too
7 ill to attend the trial today. The certificate will
8 be recorded and filed. With the Tribunal's permission
9 the accused TOGO will be absent from the courtroom
10 during the whole of the morning session conferring
11 with his counsel.

12 General Vasiliev,

13 GENERAL VASILIEV: Your Honor, the last
14 witness Budarin in the Soviet phase of the prosecution,
15 called for cross-examination, has arrived in Tokyo.

16 As this witness arrived on board a Soviet
17 ship, and it is desirable that the witness leave on
18 board the same ship which probably leaves Tokyo
19 tomorrow, we respectfully ask the permission of the
20 Court that the witness Budarin be examined any time
21 today at the discretion of the Court. Mr. Budarin
22 is in the witness room.

23 I apologize that my request interrupts
24 KOISO's case, but there is no other way as we do not
25 wish the witness to spend more time than is necessary

away from his work.

1 MR. FURNESS: If the Tribunal please, the
2 defense never requested the witness Budarin be called
3 for cross-examination. He was not included in our
4 motion. We told the Soviet prosecutor last week
5 that we had no wish to cross-examine him and that he
6 need not come here. We do not feel that his testimony
7 is of any material importance and we therefore have
8 no wish to cross-examine him, and we never had such
9 a wish.
10

11 GENERAL VASILIEV: The defense told us that
12 they didn't wish to cross-examine that witness last
13 week when the witness was on board ship on his way
14 to Tokyo.

15 THE PRESIDENT: They say they never asked
16 for him to be brought for cross-examination.

17 MR. FURNESS: We were also told, if your
18 Honor please, that he was to come here by plane. We
19 were told that on Wednesday and we were asked whether
20 we wished to cross-examine him. We told them that
21 we did not wish to cross-examine him and there was
22 no need of his taking the plane.
23

24 GENERAL VASILIEV: It was not on Wednesday.
25 As a matter of fact, it was on Thursday, but this is
not the most important point. When the affidavit was

1 offered, the defense didn't call that witness for
2 cross-examination. But in July of this year, the
3 defense filed a blanket motion as regards all witnesses
4 in the Soviet phase, and this motion of the defense
5 was fully granted, which means that the witness
6 Budarin was included as well.

7 THE PRESIDENT: However, they do not want
8 to cross-examine and that is the end of it.

9 MR. FURNESS: If your Honor please, our
10 motion named the witnesses we wanted brought. We
11 argued on the details of the direct testimony they
12 had given and told why we wanted to cross-examine them.
13 Budarin was not named. It was not a blanket motion.

14 THE PRESIDENT: The defense do not want to
15 cross-examine him, the Tribunal do not want him cross-
16 examined, so there is no reason why he should not
17 return to Russia or wherever he is going as soon as
18 transportation is available.

19 GENERAL VASILIEV: I am satisfied, with the
20 permission of the Tribunal, that the witness Budarin
21 be produced before the Court. If the defense does
22 not desire to cross-examine the witness, taking into
23 consideration that the witness has especially arrived
24 in Tokyo, the prosecution desires --

25 THE PRESIDENT: You mean to further examine

him.

1 THE RUSSIAN INTERPRETER: "...the prosecution
2 desires --" The Russian prosecutor hasn't completed
3 the sentence.
4

5 GENERAL VASILIEV: -- first, that the witness
6 confirm his affidavit under oath, to read those
7 parts of the affidavit not previously read into the
8 transcript.

9 I state once more that the defense filed
10 a blanket motion and the witness Budarin was included
11 in that motion. Obviously the defense have changed
12 their minds now and the decision of the Tribunal
13 concerns all the witnesses.

14 MR. FURNESS: I state once again, your Honor,
15 the record states for itself. The Court can read
16 the motion. We have not changed our minds. We did
17 not want to cross-examine him in the beginning. We
18 don't want to cross-examine him now. To put him on
19 the stand to be sworn again when his affidavit is
20 apparently already on oath, seems to us a waste of time.
21 The remaining parts are already in evidence even
22 though not read.
23

24 THE PRESIDENT: I have received no intimation
25 from any Member of the Tribunal that he desires that
this witness be called for any purpose whatsoever.

1 A majority of the Tribunal are against
2 you, General. I have received notes in the meantime
3 indicating that at least one or two Members would
4 be prepared to hear you, but a majority are against
5 calling him for any purpose whatsoever.

6 Captain Brooks.

7 - - -

8 K U N I A K I K O I S O, an accused, resumed the
9 stand and testified through Japanese inter-
10 preters as follows:

11 MR. BROOKS: I will continue reading from
12 page 22, paragraph 23 of the English text of exhibit
13 3375:

14 "23. In relation to my answer to the question
15 on the Southern expansion raised by Mr. FUKUDA, Member
16 of the House of Representatives, in the 75th Session
17 of the Diet on 17 March, 1940, Court exhibit 2215-A,
18 the reply I made at the outset that I agreed with
19 him did not mean that I approved of the method proposed
20 by that member, but it meant that I only agreed that
21 it was necessary to pay attention to economic movement
22 in the south. This is proved by the very contents
23 of my reply. The fact that I held the opinion that
24 the Southern regions were not suitable for large-scale
25 Japanese emigration because of climate and customs

1 is also clear from the contents of my reply. Further-
2 more, it is needless to say that there was no
3 military significance to this discussion, as may be
4 seen by reading the whole discussion which took
5 place at the time, as it only deals with purely
6 economic problems of commerce and emmigration.

7 "24. According to Court exhibit 1309, page
8 16, it is said that the arrangement of sending
9 Ambassador SAWADA to Dutch East Indies as the Economic
10 Envoy in July, 1940 was dropped because of myself.
11 However, I did not know that Ambassador SAWADA had
12 been intended to be the Envoy, nor did I know that
13 the plan was changed later. Also I declined the offer
14 of the Prime Minister and the Foreign Minister when
15 I was requested to become Economic Envoy because
16 I was not suited for it.

17 "25. I was Prime Minister from 22 July,
18 1944 to 7 April, 1945.

19 "The matters mentioned in exhibit 661 were
20 decided by the Supreme Council on 1 February, 1945.
21 In view of the necessity that some measures should
22 be taken to defend French Indo-China for self-subsistence
23 and defense in the face of a situation where the
24 United States forces had already landed in the
25 Philippines at that time, and their planes were at

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2 more, it is needless to say that there was no
3 military significance to this discussion, as may be
4 seen by reading the whole discussion which took
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9 Ambassador SAWADA to Dutch East Indies as the Economic
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12 been intended to be the Envoy, nor did I know that
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18 1944 to 7 April, 1945.

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20 decided by the Supreme Council on 1 February, 1945.
21 In view of the necessity that some measures should
22 be taken to defend French Indo-China for self-subsistence
23 and defense in the face of a situation where the
24 United States forces had already landed in the
25 Philippines at that time, and their planes were at

1 times raiding French Indo-China, and possibility
2 existed of American landing at any time in French
3 Indo-China, coupled with the attitude of the French
4 Indo-China forces which became decidedly non-
5 cooperative with our forces it had been decided
6 at the Supreme Council for the Direction of War
7 that measures be taken to have the armed forces
8 and constabulary in French Indo-China reorganized
9 and placed under control of a Japanese Army Commander,
10 but to leave the date and the execution of this
11 decision to the consultation and decision of the
12 Army Commander and the diplomatic representatives
13 on the spot, who should obtain the consent of the
14 Governor-General of French Indo-China to our request
15 at this time and to make efforts to arrange by
16 peaceful means to put it into execution, and such
17 measures were taken by the authorities on the spot
18 on March 9, 1945, but I had no connection therewith
19 or responsibility therefor, as its execution was
20 within the competence of the Supreme Command.
21
22
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1 "26. In relation to the treatment of
2 prisoners of war and internees.

3 "The responsibility for the treatment of the
4 prisoners of war and internees rested with those con-
5 cerned with the Central Command, and the Prime Mini-
6 ster could not participate in matters concerning
7 the Command according to stipulations in the former
8 Japanese constitution. I was allowed to attend the
9 Imperial Headquarters by Imperial command on 16
10 March 1945 (20th Year of Showa) only three weeks
11 before my resignation as Prime Minister. This privi-
12 lege was confined however to listening to reports
13 on the progress of war operations and did not allow
14 me to participate directly in the Supreme Command.
15 Thus I had no responsibility for the treatment of
16 prisoners of war and during the three or four meetings
17 of the Staff Officers of the Imperial Headquarters
18 that I was allowed to attend (they were held twice
19 per week), I was not informed even once about any
20 problem of mistreatment of prisoners of war, at least
21 there was no discussion of such matters at any meet-
22 ing at which I was present.

24 "The prosecution alleges that matters con-
25 cerning atrocities and mistreatment of prisoners of
war were well known before I was appointed Prime

1 Minister, but in fact there was no public knowledge
2 about such matters. Especially I knew nothing about
3 them since I was located in Korea from May, 1942
4 (17th Year of Showa) to July, 1944 (19th Year of
5 Showa). I believe that only those directly in charge
6 of prisoners knew about the existence of such problems.
7 Also the possession of short-wave radios was pro-
8 hibited as a security measure for maintenance of
9 peace and order as to both civilians and officials
10 alike, and I did not possess a short-wave radio nor
11 did I hear the Eden broadcasts, nor was any report
12 ever made to me about such matters.

13 "Censorship on the publicity of information
14 may also account for lack of public knowledge about
15 such matters.
16

17 "Furthermore the notification to be issued
18 by the Vice-Minister of War on the treatment of
19 prisoners of war according to court exhibit 2012,
20 exhibit 2013 and exhibit 2014 was outside of the scope
21 of the duties of the Prime Minister, and was not of
22 a nature required to be reported to me.

23 "The dates cited by the prosecution of almost
24 all of the protests or inquiries from foreign
25 countries regarding the treatment and services of
prisoners of war, sea victims and internees in general

1 Minister, but in fact there was no public knowledge
2 about such matters. Especially I knew nothing about
3 them since I was located in Korea from May, 1942
4 (17th Year of Showa) to July, 1944 (19th Year of
5 Showa). I believe that only those directly in charge
6 of prisoners knew about the existence of such problems.
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18 prisoners of war according to court exhibit 2012,
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20 of the duties of the Prime Minister, and was not of
21 a nature required to be reported to me.

22 "The dates cited by the prosecution of almost
23 all of the protests or inquiries from foreign
24 countries regarding the treatment and services of
25 prisoners of war, sea victims and internees in general

1 came at the time when I was not Prime Minister and
2 even if a few might have come during my tenure as
3 Prime Minister, I received no reports about them
4 from the Foreign Minister. Therefore I knew nothing
5 about those matters and therefore I did not investi-
6 gate as to what action was taken in relation there-
7 to.

8 "I firmly believed that prisoners of war
9 were being treated properly by our country because
10 of the established customs for treatment of prisoners
11 of war, which had always been praiseworthy. Such
12 cases described in this court of cruel and inhuman
13 acts were beyond my imagination, and it never
14 occurred to me to suggest any investigation to
15 those concerned with such matters, during my tenure
16 as Prime Minister.

17
18 "27. In December, 1941 (16th Year of Showa)
19 I was invited to a party by my acquaintance,
20 YAMANAKA, Yuzaburo, and there I expressed my cherished
21 view opposing the opening of hostilities. I said
22 that it was my desire to avert the opening of war
23 against America and Great Britain to the utmost
24 degree and stated my reasons therefor.

25 "Mrs. YAMANAKA, who was present at the
party that night, recollected my view advocating the

1 prevention of war against America and Great Britain
2 and wrote a letter to my wife stating that she re-
3 called what I said and that I was far-sighted.

4 "On receiving word that I was to stand
5 trial, I went voluntarily to Sugamo Prison on 23
6 November 1945 (20th Year of Showa) and at that time
7 I had that letter with me, thinking that it might
8 serve as evidence in my behalf. When my personal
9 belongings were examined, I made a plea that I
10 wanted to keep the letter with me since it was my
11 personal documentary evidence. But it was taken
12 away from me by the prison authorities who said that
13 it would be returned when necessary. After this
14 Tribunal opened, I approached the prison authorities
15 through the American counsel and asked for the return
16 of the letter, but I regret to say I have been unable
17 to get it back, since we are told it has been lost."

18 I wish to state that both the defense and
19 the prosecution are endeavoring to find this letter
20 mentioned above, and if it is found we will offer it
21 in evidence to substantiate the statement in para-
22 graph 27 of this exhibit.

23 I will not read the next paragraph on page
24 26, starting with the words "Besides the above,"
25 since the documents referred to as lost by the

1 prosecution have been found and made available to me
2 in the last few days, and we are having translations
3 prepared of the said documents at the present time --
4 the 24th of September, your Honor, when I had the
5 documents turned over to me.

6 I will continue reading with the last para-
7 graph at the bottom of page 26:

8 "The fact I consistently maintained a view
9 opposing the commencement of war against America
10 and Great Britain can be shown in the latter part of
11 a statement of Major-General F. S. G. Piggot, Military
12 Attache to the British Embassy in Tokyo. The state-
13 ment shows that when the said General visited me in
14 my house in spring in 1939 (14th Year of Showa) I
15 informally expressed my opinion that our relations
16 with America and Great Britain must be improved for
17 the happiness and interests of the three nations and
18 that such improvement must be achieved through peace-
19 ful negotiations and we must by all means avoid resort-
20 ing to arms.

21 "28. Court exhibit 277 states that in the
22 administrative policy speech which I delivered to the
23 Diet on 7 September 1944 (19th Year of Showa) as Prime
24 Minister, I declared that the independence of the
25 Netherlands East Indies would be recognized.

1 "The facts were as follows: According to
2 reports to the military administration, the natives
3 had long wished for independence, they had been ex-
4 tending wholehearted co-operation to the military
5 officials and their national consciousness had in-
6 creased markedly. On consultation, the Supreme
7 Council for Direction of War agreed that in order to
8 establish the welfare and prosperity of these races,
9 it was very necessary to take steps to recognize their
10 independence. Therefore, I submitted this matter to
11 the Cabinet Conference and obtained its approval, so
12 I made a statement of this policy to the Diet and
13 steps were taken to prepare for its effectuation.

14 "Also in this speech on administrative policy
15 it is stated towards the end of the second paragraph
16 that 'Concentrating all efforts, I wish to gather
17 the national strength together with a harmonious
18 national unity to achieve the war's end, in accordance
19 with the expected operation of our armed forces, which
20 will soon be realized, to destroy America and Britain.'

22 "I submit that this is a speech any Premier
23 would make under the circumstances, for at the time
24 of my taking office we were fighting on the defensive
25 and the allied powers threatened to destroy Japan.

"My real intention behind this statement in

1 another way was that we can no longer hope for the
2 last victory for the war so now that our army and
3 navy are anticipating a decisive battle in the near
4 future, if they would destroy even temporarily the
5 advancing power of the enemy it may be that by taking
6 advantage of such an opportunity we may plan to bring
7 the termination of war and thus arrange for a nego-
8 tiated peace. This idea was maintained not only by
9 myself alone, but also by members of the Supreme
10 Council for Direction of War, and by members in the
11 Cabinet as well.
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1 "The Council for Direction of War also decided
2 to devise two schemes for the realization of future
3 peace. This serves to prove that the Supreme Command
4 also had the will to end the war and make peace.

5 "And one of those measures to realize peace
6 was through the good offices of the Chungking administra-
7 tion, and the other through the Soviet Union. It was
8 my plan that if fortunately both of these peace measures
9 bid fair to be successful, the one through the Chung-
10 king administration would be limited to the realization
11 of peace between Japan and China upon negotiations with
12 Chungking, while the conclusion of peace in the Pacific
13 War would be primarily through the mediation of the
14 Soviet Union. For this purpose, on the one hand we
15 hastened to establish a direct communication route with
16 Chungking, while on the other hand we endeavored to
17 dispatch proper representatives to the Soviet Union, in
18 addition to our ambassador already stationed there, and
19 thus we set about the preparations for the termination
20 of war and restoration of peace.

21
22 "However, the project of the army and navy
23 which was to destroy the advancing power of the enemy
24 ended in a failure in the Philippines and the adjacent
25 areas, and all the measures for the project of the
termination of war and making peace confronted various

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1 obstacles and could not effect a speedy progress.

2 "During all this time, the war situation turned
3 out to be increasingly unfavorable day by day. There-
4 fore, I devised, by way of some new methods, to bring
5 about further adjustment and harmonization of state
6 policy and the Supreme Command and also the increased
7 production of munitions and foodstuff. Hereby, in a
8 natural way, we would be enabled to hold an accurate
9 notion as to the substance of our war potential of
10 state, whereupon it was my desire to make a prompt de-
11 cision of future policy. As to the harmonization of
12 state policy and the Supreme Command, I had obtained the
13 Imperial Sanction previously to create the Supreme War
14 Directing Council which was to be a more simplified and
15 powerful organ as compared with the Liaison Council of
16 the government and the Supreme Command. With regard to
17 the increased production of munitions and foodstuff, all
18 efforts were concentrated to achieve this purpose in
19 accordance with the harmonious unity of our cabinet
20 members in utilizing and directing manpower and material
21 power in the full.
22

23 "However, the Supreme War Directing Council did
24 not come up to my expectations and was ineffective in
25 its operations and the Supreme Command was prone to
develop into unexpected directions without the least

1 obstacles and could not effect a speedy progress.

2 "During all this time, the war situation turned
3 out to be increasingly unfavorable day by day. There-
4 fore, I devised, by way of some new methods, to bring
5 about further adjustment and harmonization of state
6 policy and the Supreme Command and also the increased
7 production of munitions and foodstuff. Hereby, in a
8 natural way, we would be enabled to hold an accurate
9 notion as to the substance of our war potential of
10 state, whereupon it was my desire to make a prompt de-
11 cision of future policy. As to the harmonization of
12 state policy and the Supreme Command, I had obtained the
13 Imperial Sanction previously to create the Supreme War
14 Directing Council which was to be a more simplified and
15 powerful organ as compared with the Liaison Council of
16 the government and the Supreme Command. With regard to
17 the increased production of munitions and foodstuff, all
18 efforts were concentrated to achieve this purpose in
19 accordance with the harmonious unity of our cabinet
20 members in utilizing and directing manpower and material
21 power in the full.
22

23 "However, the Supreme War Directing Council did
24 not come up to my expectations and was ineffective in
25 its operations and the Supreme Command was prone to
develop into unexpected directions without the least

1 knowledge of the Premier. Also, reduction of our war
2 potential was seen to be accelerated, owing to exclusive-
3 ly increasing damages by bombing on our manufacturing
4 establishment and function. Hereupon, for the purpose
5 of eliminating the defective point of the former, I was
6 authorized to attend the Imperial Headquarters confer-
7 ence by order of the Imperial Command, yet being bound
8 by the provisions of the constitution, I was given no
9 opportunity to take active part in matters pertaining
10 to military operations and tactics. On the other hand,
11 in order to improve defects of the latter, every effort
12 was made to remove manufacturing establishments to
13 places of safety, especially underground, but being
14 confronted with difficulties in problems concerning
15 materials and labor and in transporting capacity we
16 were hardly able to attain expected results.

17
18 "However, a War Minister, being engaged in
19 affairs related both to state policy and the Supreme
20 Command, could not only be well informed of the war
21 potential in material but also be aware of even the
22 secrets of the plans with regard to operations and
23 tactics of the Supreme Command in advance of their de-
24 cision through his routine though delicate business.

25 "On the other hand, he was authorized, at the
same time, in the scope of military administration, to

1 knowledge of the Premier. Also, reduction of our war
2 potential was seen to be accelerated, owing to exclusive-
3 ly increasing damages by bombing on our manufacturing
4 establishment and function. Hereupon, for the purpose
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19 affairs related both to state policy and the Supreme
20 Command, could not only be well informed of the war
21 potential in material but also be aware of even the
22 secrets of the plans with regard to operations and
23 tactics of the Supreme Command in advance of their de-
24 cision through his routine though delicate business.

25 "On the other hand, he was authorized, at the
same time, in the scope of military administration, to

1 apply military force, equipment and transporting
2 capacity occasionally to fields most necessary on view
3 of strengthening the war potential. Hereupon, I asked
4 for the Imperial sanction to return me to the active
5 list so I could hold the additional post of War
6 Minister, though it had been felt a little too late. I,
7 as Premier, was resolved to extirpate the two big de-
8 fects, whereby to grasp the true situation of the real
9 war potential of state and thus to prosecute my policy
10 since the time of the formation of the cabinet.

11 "On 3 April 1945 I suggested to War Minister
12 SUGIYAMA the effectuation of the plan of the Premier's
13 holding the additional post of War Minister, but met his
14 opposition. Thereupon, upon consultation with Admiral
15 YONAI, cooperator in this joint cabinet, I applied for
16 resigning from the post of Prime Minister, wishing ever
17 more for the realization of such a new and powerful
18 cabinet such as I had in mind, and on 5 April 1945 the
19 cabinet applied for resigning en bloc, and I resigned
20 from the post of Prime Minister, and thus permanently
21 withdrew from public life.

22 "29. At no time did I ever have any conversa-
23 tion with any of the other accused or anyone else in-
24 volving the planning, scheming and conspiring, as alleged
25 in the Indictment.

1 "I had no official or personal relationship
2 with the following accused:

3 "DOIHARA, HASHIMOTO, HOSHINO, KAYA, KIMURA,
4 MUTO, OKA, OSHIMA, SHIMADA, TOGO and TOJO.

5 "I did not become acquainted either officially
6 or personally with the other accused until the follow-
7 ing dates:

8 "MINAMI, December 1889; HATA, December 1908;
9 ARAKI, 1918; MATSUI, August 1920; UJIZU, April 1925;
10 SATO, August 1929; SUZUKI, August 1930; SHIRATORI, Sep-
11 tember 1931; KIDO, April 1932; HIRANUMA, August 1932;
12 ITAGAKI, August 1932; HIROTA, July 1944; SHIGEMITSU,
13 July 1944."

14 I have a few additional questions on matters
15 mentioned in exhibit 3340, at page 247, KIDO's affi-
16 davit, upon which I examined KIDO at record page 31,242
17 to 31,248.

18 Q Mr. KOISO, what have you to say about the
19 reliability of Miao Pin, and did you have any method
20 for testing or checking as to his reliability?
21

22 A From the facts which I will set forth below,
23 I believe there were considerable reasons for placing
24 reliability on Miao Pin.

25 The first fact is that I had occasion to meet
him twice in the year 1939, and learned on those

1 occasions that Miao Pin was a staunch advocate of
2 Japanese-Chinese friendship and conciliation, and in
3 addition was a very close friend of one of the leaders
4 in the Chungking Government, Ho Ying-chin.

5 The second fact is that, although he was
6 nominated president of the Legislative Yuan of the Nan-
7 king Regime under the leadership of Mr. Wang Chingwei; he
8 was demoted to the post of Chief of the Examination
9 Board -- Vice-Chief. And the reason for his demotion
10 was that he had intercourse with the Chungking Regime.

11 The third fact is that he constantly kept con-
12 tact with Chungking by skilful use of wireless sending
13 and receiving apparatus, and in addition people were
14 being dispatched to him from Chungking from time to
15 time -- a liaison person was being dispatched from time
16 to time from Chungking.

17 The fourth fact is that upon his arrival in
18 Tokyo he showed me that he had a telegram from Chung-
19 king stating that the Chungking Regime approved of his
20 coming to Tokyo, but that he, under no circumstances,
21 should go beyond the scope of the peace terms stipulated
22 by the Chungking Government.

23
24 Q What were those terms, General?

25 A There were six points in the peace terms said
to have been set forth by the Chungking Government:

1 First, with regard to the Manchurian question,
2 a separate agreement shall be made.

3 The second term was that Japan would complete-
4 ly withdraw her forces from China.

5 The third term was that the Japanese Govern-
6 ment shall detain all the leaders of the Wang Chingwei
7 Regime in Nanking, in Japan.

8 The fourth term was that the Chungking Regime
9 will establish in Nanking, for the time being, a govern-
10 ment in absentia, and place in that government leaders
11 of the Chungking Government.

12 The fifth term was that the Chungking Govern-
13 ment will return to Nanking within a period of three
14 months.

15 The sixth term was that Japan shall make peace
16 with the United States and Great Britain.
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14 months.

15 The sixth term was that Japan shall make peace
16 with the United States and Great Britain.
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1 Q You were making direct peace negotiations,
2 were you not?

3 A I endeavored to establish a direct line of
4 communication with the Chungking Government by taking
5 advantage of the services of Miao Pin.

6 Q Were your projected peace moves opposed?

7 A I invited Miao Pin to Japan with the approval
8 and agreement of the Ministers of War, Navy, and
9 Foreign Affairs. However, after Miao Pin had been in-
10 vited to Tokyo -- and I did not know what transpired
11 meanwhile, but when these three ministers were re-
12 ceived in audience by the Emperor, they expressed
13 disapproval of the idea.

14 Q This was in April, 1945, was it not?

15 A I think it was in the first part of April
16 that these three ministers expressed their opposition.

17 Q Was that before the report you made to the
18 Throne on your plan for direct peace negotiations?

19 I think KIDO testified it was April 2, 1945.

20 A I think it was on March 27 that I first re-
21 ported to the Throne in connection with the Miao Pin
22 matter.

23 Q What happened? Was the Emperor in favor of
24 it or not?

25 A At that time His Majesty did not express

1 approval or disapproval but asked me whether I intend-
2 ed to continue my peace efforts through Miao Pin, and
3 I replied to him that that was my intention.

4 Q What happened at the later meeting? Were you
5 reprimanded or rebuked in any way?

6 A I think it was on the 2nd of April that I was
7 summoned to the Imperial Palace and was given an audience
8 by His Majesty the Emperor, and on that occasion he
9 said that the War, Navy, and Foreign Ministers had
10 separately expressed to the Throne their respective
11 disagreement and disapproval of the idea. Upon telling
12 me that, His Majesty instructed me to return Miao Pin
13 immediately to China, but he did not rebuke me.

14 Q What other peace plans did you try as to the
15 United States and Great Britain, and were these also
16 opposed?

17 A I made efforts to send to Moscow, in the
18 U.S.S.R, in addition to the ambassador already sta-
19 tioned there, an able special envoy to make prepara-
20 tions for peace moves vis a vis the United States and
21 Great Britain. I had Ambassador SATO in Moscow bring
22 this up with the People's Commissar for Foreign Affairs
23 of the Soviet Union, but this met refusal on the part
24 of the Soviet authorities in a very roundabout manner.
25

Q Now, why did you seek reinstatement into

1 approval or disapproval but asked me whether I intend-
2 ed to continue my peace efforts through Miao Pin, and
3 I replied to him that that was my intention.

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5 reprimanded or rebuked in any way?

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8 by His Majesty the Emperor, and on that occasion he
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12 me that, His Majesty instructed me to return Miao Pin
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15 United States and Great Britain, and were these also
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20 tions for peace moves vis a vis the United States and
21 Great Britain. I had Ambassador SATO in Moscow bring
22 this up with the People's Commissar for Foreign Affairs
23 of the Soviet Union, but this met refusal on the part
24 of the Soviet authorities in a very roundabout manner.
25

Q Now, why did you seek reinstatement into

1 active service? Was it for the purpose of redoubling
2 your efforts for the prosecution of the war, as testi-
3 fied by KIDO, exhibit 3340, page 31,248, paragraph
4 281, or was it for other reasons?

5 A The testimony of the accused KIDO is wrong.
6 My idea in connection with this matter has already been
7 set forth in my affidavit. By holding the office of
8 the Minister of War concurrently, my intention was,
9 on the one hand, to bring about an increased pro-
10 duction -- increased war production, and on the other
11 hand, to be able from the standpoint of the High Command
12 to get an overall picture and understanding of the
13 national strength and fighting power, and on the basis
14 of this I wished to decide whether it would be prefer-
15 able immediately to bring a termination of the war and
16 make peace or, as the army advocated, to hold the final
17 and decisive battle on the mainland of Japan and then
18 bring about a termination of the war.

19 Q You would have had a means of knowing secret
20 plans as War Minister that you did not have as Prime
21 Minister, is that correct?
22

23 A As I have already set forth in my affidavit,
24 the Minister of War and the Minister of the Navy, be-
25 cause they handled matters of state and at the same time
matters of the High Command, as a means of bringing

1 active service? Was it for the purpose of redoubling
2 your efforts for the prosecution of the war, as testi-
3 fied by KIDO, exhibit 3340, page 31,248, paragraph
4 281, or was it for other reasons?

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11 hand, to be able from the standpoint of the High Command
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13 national strength and fighting power, and on the basis
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16 make peace or, as the army advocated, to hold the final
17 and decisive battle on the mainland of Japan and then
18 bring about a termination of the war.

19 Q You would have had a means of knowing secret
20 plans as War Minister that you did not have as Prime
21 Minister, is that correct?
22

23 A As I have already set forth in my affidavit,
24 the Minister of War and the Minister of the Navy, be-
25 cause they handled matters of state and at the same time
matters of the High Command, as a means of bringing

about harmony and coordination between the two are
1 able to know in advance military plans and operations,
2 as well as tactics, before any decision is reached on
3 such plans.

4 Q It would be necessary to have control more
5 or less in the event that you were working out peace
6 plans, would it not?

7 A Yes, it was very necessary in order to under-
8 stand and fully grasp the relationship of war, on the
9 one hand, and the termination of war on the other.

10 Q And following this opposition, your cabinet
11 resigned, then, on the 5th of April, 1945?

12 A Yes.

13 MR. BROOKS: You may cross-examine.

14 THE PRESIDENT: Major Furness.

15
16 CROSS-EXAMINATION

17 BY MR. FURNESS:

18 Q I want to ask you one question, General KOISO.
19 Do you know what happened to Miao Pin after the war?

20 A I do not know.

21 Q Do you not know that he was tried, convicted,
22 and executed as a traitor to the Chungking China Republic?

23 A I don't know anything exact. I have heard,
24 however, that there was some report to that effect in
25 the newspapers.

1 MR. FURNESS: If your Honor please, I had
2 no idea that this was coming up, from the affidavit.
3 I may wish to cross-examine later after I have seen
4 the record.

5 THE PRESIDENT: Were you really cross-examin-
6 ing on behalf of all the defendants?

7 MR. FURNESS: No, sir, I was not, but I read
8 the affidavit and I did not intend to ask any ques-
9 tions.

10 THE PRESIDENT: You are examining for
11 SHIGEMITSU, we take it?

12 MR. FURNESS: Yes.
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1 MR. YAMADA: May I ask a few questions for
2 the defendant ITAGAKI by way of additional direct
3 examination?

4 DIRECT EXAMINATION (Continued)

5 BY MR. YAMADA:

6 Q The March Incident of which you speak in
7 paragraph 3 of your affidavit, did that have anything
8 to do with the so-called Manchurian Incident?

9 THE MONITOR: No, slight correction. The
10 March Incident of which you speak in the third para-
11 graph in your affidavit, did that have the Manchurian
12 Incident in object?

13 A In so far as I know, it has nothing whatsoever
14 to do with the Manchurian Incident.

15 THE PRESIDENT: That is repetitive and
16 unnecessary examination.

17 Q Was a single officer of the Kwantung Army
18 connected in any way with the so-called March Incident,
19 the October Incident, the May 15 Incident or the
20 February 26 Incident?

21 A In so far as I know I have never heard of
22 any Kwantung Army officer participating or being
23 connected in any way with any of the incidents just
24 named by you.
25

THE PRESIDENT: Mr. Logan.

DIRECT EXAMINATION (Continued)

1 BY MR. LOGAN:

2 Q General KOISO, it is a fact, is it not,
3 that you did seek reinstatement in active service?

4 MR. BROOKS: I object to that, your Honor,
5 as repetitious. It is stated in both his affidavit
6 and on the stand.

7 MR. LOGAN: It is just a preliminary question,
8 your Honor.

9 Q And you did seek concurrent appointment as
10 War Minister, is that right?

11 A With regard to my holding the post of War
12 Minister concurrently, I had talks and negotiations
13 with General SUGIYAMA because if that was not possible
14 there was no need for my making application for re-
15 instatement into active service. Therefore, I did not
16 make any application for reinstatement into active
17 service.

18 Q But you sought it from General SUGIYAMA,
19 didn't you, without making an actual application for
20 it; isn't that true?

21 A Expression of the desire to hold the post of
22 War Minister concurrently amounts to asking for rein-
23 statement into active service.

24 Q At that time, General, the war situation was
25

1 deteriorating and growing worse and worse against
2 Japan, is that true?

3 A As you say.

4 Q And you were anxious to try to bolster up
5 the army at that time, weren't you; to do something
6 to stave off defeat?

7 A That was to increase war production.

8 MR. LOGAN: That is all.

9 COLONEL FIXEL: If it please the Tribunal,
10 the prosecution would like to cross-examine the
11 witness.
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CROSS-EXAMINATION

1 BY COLONEL FIXEL:

2 Q Witness, were you convinced of Miao Pin's
3 authority to act as a liaison for the Chungking
4 Government?

5 A I have already told the Court in connection
6 with the reliability of Miao Pin. But, because I
7 was unable to trust him one hundred per cent, I made
8 various efforts to ascertain whether he was actually
9 a trustworthy agent.

10 Q And isn't it true that one of the matters
11 that you wanted to confirm was his authority from
12 Chungking, and is it not also true that the only way
13 you could check this was to get into radio communica-
14 tion with Chungking?

15 A It is generally as you presume, but I think
16 some words of additional explanation should be made.
17 May I add that remark?

18 Q Certainly.

19 A As I have said before, Miao Pin was for the
20 most part a person related with the Nanking Regime --
21 originally related to the Nanking Regime, and at
22 first it was my idea that Miao Pin did not have the
23 qualifications to act as representative of China in
24 connection with peace between Japan and China. The
25

1 utilization of Miao Pin was only to the extent of es-
2 tablishing a direct line of communication between us
3 and Chungking. If such a contact would be estab-
4 lished, it was my intention to bring the matter up
5 before the Supreme Council for the direction of war
6 to study and to discuss terms of peace; and unless
7 China, that is to say the Chungking Government, sent
8 us a bona fide representative, it was not our inten-
9 tion to enter into peace talks.

10 Q Well, you wanted to be sure that this man
11 was a bona fide representative of Chungking, isn't
12 that right?

13 A No, not so.

14 Q You assumed that he was an authorized repre-
15 sentative to act as liaison, is that correct?

16 A May I have the question repeated?

17 COLONEL FIXEL: Will the reporter please
18 repeat the question.

19 (Whereupon, the Japanese reporter
20 read.)

21 A (Continuing) It appears that my previous
22 reply seems not to have been sufficiently understood.
23 May I repeat again that I, nor the Japanese Govern-
24 ment, did not consider Miao Pin as a representative of
25 the Chungking Government in connection with peace

1 be'ween Japan and China. Our only intention was to
2 utilize him for the purpose of establishing a direct
3 line of communication between the Japanese Government
4 and the Chinese Government in Chungking.

5 Q And isn't it true that you even had sus-
6 picions that he had any form of contact with Chung-
7 king as he claimed?

8 THE PRESIDENT: You mean doubt, Colonel, I
9 take it.

10 COLONEL FIXEL: I beg your pardon? Yes,
11 that's correct.

12 A Yes, I entertained doubts.

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1045, a recess
16 was taken until 1115, after which the pro-
17 ceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Fixel.

4 COLONEL FIXEL: May I proceed?

5 THE PRESIDENT: Yes.

6 BY COLONEL FIXEL (Continued):

7 Q Witness, have you completed your answer to
8 the last question?

9 A No, I have not. May I continue?

10 Q Yes.

11 A I entertained doubts whether Miao Pin was
12 actually and surely maintaining radio communication
13 with Chungking with the wireless apparatus that he
14 had in his possession. And so I arranged to have Miao
15 Pin when coming to Tokyo to bring along with him his
16 wireless apparatus and his operator and had him ac-
17 tually communicate through this apparatus with Chung-
18 king and at the same time had our own wireless sta-
19 tions intercept the message to find out whether every-
20 thing was bona fide.

22 Q Isn't it a fact that Miao Pin came to Tokyo
23 without his radio apparatus, and that the Japanese
24 refused to fly his apparatus to Japan from Shanghai?

25 A In my affidavit I have stated that there
were various impediments in the way. It was scheduled

1 that Miao Pin in coming to Tokyo was to bring his
2 wireless apparatus, the operator of the apparatus,
3 and a representative dispatched from Chungking. But
4 because he alone came, further steps were being taken
5 in preparation to bring the radio apparatus and the
6 operating personnel later on.

7 Q Didn't you previously testify that he brought
8 his apparatus, and that by means of this radio appara-
9 tus he was able to communicate with Chungking?

10 A Miao Pin said that he was able to communicate
11 with Chungking by means of his wireless apparatus.
12 But unless we actually tested it, it was impossible
13 for us to ascertain whether or not he was actually in
14 a position so to do. And since we could not test that
15 we were unable to ascertain that.

16 Q Are you through with the answer to the ques-
17 tion that was asked before the recess?

18 A May I be permitted to speak of one other
19 method that was used to make a test?

20
21 In speaking of this method I might say that
22 we got information that there was a person owning a
23 wireless apparatus in Peking in North China and that
24 he was in communication with Chungking. So we were
25 also making efforts to make preparations to bring to
Tokyo from Peking the personnel and the apparatus which
we were told were in Peking.

1 Q We will proceed to another matter now. Were
2 you a director of the Kokuhonsha Society?

3 A I couldn't hear. Did you say director?

4 Q Yes.

5 A I have no recollection of ever being named
6 a director.

7 Q Did you hold any office in that society?

8 A No.

9 THE PRESIDENT: Were you a member?

10 THE WITNESS: At the time I was a regimental
11 commander I became a member of the society purely out
12 of desire to read a magazine published by the organiza-
13 tion called the Kokuhon.

14 Q Do you recall approximately what period of
15 time you were a member of the organization?

16 A I think it was in 1938 that I became a member.
17 No, I have made a mistake. It is the 13th year of
18 Taisho or 1924.

19 Q How long did you remain a member of that
20 organization?

21 A I do not know when the Kokuhonsha was dissolved
22 but I think I continued to be listed in its membership
23 until the society disappeared.

24 Q Did you ever attend any meetings of that organ-
25 ization?

1 A Yes, just once.

2 Q And was that the meeting in July of 1931 when
3 the accused MINAMI was a speaker before that organiza-
4 tion meeting?

5 A I have not attended a meeting at which the
6 accused MINAMI was a speaker.

7 Q Did you ever attend a meeting at which the
8 accused MINAMI was also in attendance?

9 A As I have said before, I attended a meeting
10 of the Kokuhonsha only once and I have no recollection
11 whether the accused MINAMI was there or not.

12 Q At that meeting which you attended was the
13 accused HIRANUMA present?

14 A Yes.

15 Q And was the accused ARAKI present?

16 A I do not know whether or not the accused
17 ARAKI was there.

18 Q Do you know that the accused ARAKI was a
19 director of that organization?

20 A I have no positive recollection.

21 Q And did you not know that the accused HIRANUMA
22 was president of the Kokuhonsha?

23 A Yes, I do.

24 Q Now, were not the purposes of the Kokuhonsha
25 mainly to foster the spirit of nationalism, to bolster

the foundations of the state and to exalt the national
1 spirit?

2 A Nobody has ever explained to me the real
3 character or nature of the Kokuhonsha but from what I
4 judge -- from what I have read in the magazine published
5 by the organization, the Kokuhon, and as this title
6 indicates my understanding was that the purpose of this
7 organization was to support a proper and true understand-
8 ing of the true nature and spirit of Japan and its
9 members.
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1 Q And did that particularly interest you as
2 a regimental officer to the point that you joined
3 the organization?

4 A At that time the Japanese domestic situa-
5 tion was more or less confusing, and the Kokutai,
6 that is to say, the fundamental character of the
7 Japanese state was not fully clarified, and I thought
8 that it was a good thing to secure an understanding
9 of the true character and spirit of Japan through
10 the magazine published by the organization, and that
11 is what led to my membership in the organization.

12 Q Did you find that after you had joined this
13 organization that the organization hoped to accom-
14 plish its aims in part by taking political measures?

15 A It was my understanding that that was
16 absolutely not the case.

17 Q Did you become interested in May of 1932 in
18 the advocacy of the accused HIRANUMA as Premier of
19 Japan?

20 A I have no recollection, but I might possibly
21 have said that the leader of the next Cabinet should
22 be such and such a person.

23 THE MONITOR: When asked, "Who do you think
24 would be good as the next Premier?" I might have
25 replied, "HIRANUMA might be the best man."

1 Q Do you recall whether you made such a
2 statement to the accused KIDO?

3 A No.

4 Q Who did you make the statement to, if you
5 recall?

6 A I cannot recall.

7 Q At the time you made the statement at
8 ~~last~~ expressing your opinion that HIRANUMA would be
9 a suitable party for the office of Premier, you were
10 Vice-War Minister of the War Ministry, were you not?

11 A I do not recollect.

12 MR. BROOKS: I was going to object to
13 further questions along this line on the basis that
14 he says he doesn't recollect making any such state-
15 ment, and that any further testimony along that line
16 would be irrelevant and immaterial.

17 THE PRESIDENT: It depends on the nature of
18 the subject matter and his acquaintance with it
19 whether he can be pressed or not.

20 COLONEL FIXEL: I think, if the Tribunal
21 please, I can connect this up with the witness. I
22 would like permission to proceed.

23 THE PRESIDENT: Proceed.

24 Q In your affidavit you said that you first
25 met KIDO in April 1932, and it appears that KIDO

1 recorded in his diary in May 1932, the following
2 month, that you seemed to be in favor of HIRANUMA
3 for Premier. Will you state the circumstances under
4 which you met KIDO and what conversation passed be-
5 tween you at the time you met him in April 1932?

6 THE PRESIDENT: You may have an apprecia-
7 tion of the value of that that is not apparent to
8 me, Colonel.

9 COLONEL FIXEL: The importance of this, if
10 the Tribunal please --

11 THE PRESIDENT: Well, you need not tell me.
12 You can proceed with your cross-examination.

13 COLONEL FIXEL: I have very little more,
14 but I think I can connect it.

15 THE WITNESS: May I reply?

16 COLONEL FIXEL: Yes.

17
18 A Then let me explain how I first met KIDO.
19 The Parliamentary Vice-Minister of War by
20 the name of DOKI, Akira, told me that members of the
21 House of Peers holding peerage titles were meeting
22 at the Kazankan, and invited me to go there with him.
23 When I went to this place I found a large group of
24 people, among whom was KIDO. After that I have seen
25 KIDO from time to time, but in my recollection the
first time that I ever talked with him was in 1939

when we were in the same EIRANUMA Cabinet.

1 Q Was the Premiership of Japan a political
2 office?

3 THE PRESIDENT: It is going to be hard to
4 convince us that it was not.

5 A That is exactly as you say.

6 Q And if you as Vice-Minister of War were
7 occupying a military position what do you say as to
8 your violation of the rule which you say in your
9 affidavit existed that persons in the military ser-
10 vice would abstain from political activities?

11 IR. BROOKS: I object to that question as
12 being argumentative and being based on the false
13 premise that a member in the civil government of the
14 cabinet was actually in the active service and would
15 come under the same policies as testified to by the
16 witness.

17 COLONEL FIXEL: The affidavit of the witness
18 shows that he was in active service until he went in
19 the reserve in 1938, and this transaction took place
20 in 1932.

21 THE PRESIDENT: As Vice-Minister I suppose he
22 was in political office and also on active service.
23 What do you want to ascertain, Colonel? It is not
24 clear to me.
25

1 COLONEL FIXEL: I am trying to make a
2 record here on this point to the effect that while
3 he was in the active military service he was engaged
4 in political activities, not only in one way but in
5 several other ways. This is one of them.

6 THE PRESIDENT: There would hardly be a ban
7 against a vice-minister, but maybe so. Ask him.

8 Q Did the rule prohibiting officers from engaging
9
10 in political activities apply to the Vice-Minister of
11 War at the time you were Vice-Minister of War?

12 A I shall reply. The Vice-Minister of War and
13 the Navy Minister of War are considered as civil offi-
14 cials according to the government regulations -- Navy
15 Vice-Minister. This can be evidenced by the fact that
16 although an officer in the active list could not resign
17 or leave any post at his personal request, the Vice-
18 Minister of War and the Vice-Minister of the Navy may
19 at times of cabinet changes be relieved of his duties
20 at his own request. Both in the War and Navy depart-
21 ments when any appointments are made as officers, the
22 term "hosu" or "assignment" is used, whereas in the
23 case of the Vice-Minister, whether of the War Ministry
24 or the Navy Ministry, the word "ninzu" or "appointment"
25 or "nomination" is used.

Q You have explained that now very thoroughly.

1 Were you a member of the Sakurakai?

2 A No.

3 Q At no time?

4 A No, never.

5 Q In the early part of January, 1931, were you
6 a party to any discussions as to the ways and means
7 concerning measures for reforming Japan at which gather-
8 ings General UGAKI, General SUGIYAMA, General NINOMIYA,
9 Colonel HASHIMOTO and others were present?

10 A The prosecutor is probably referring to an
11 excerpt from the KIDO Diary which, in my recollection,
12 is court exhibit 179-F, but that is completely without
13 foundation.

14 Q I am asking you the question apart from any
15 reference.

16 A I have never attended such a meeting.

17 Q Did you know that there was a movement to
18 foster the political activities of General UGAKI in
19 the War Ministry in the early part of 1931?

20 A There was no such movement within the Ministry
21 of War.

22 Q You were acquainted with Colonel HASHIMOTO
23 at that time, weren't you?

24 A No, not at that time.

25 Q Were you acquainted with General TATEKAWA in

January, 1931?

1 A I have known General TATEKAWA since August.

2 Q August of what year?

3 A 1931, but we were not intimate.

4 THE MONITOR: I became intimate with General
5 TATEKAWA from August 1931. I knew him before that,
6 but I was not on intimate terms.

7 Q Did you know that there was a group in the
8 War Department while you were Chief of the Military
9 Affairs Bureau in 1931 that favored the use of military
10 force in connection with the appearance of General UGAKI
11 on the political field?

12 A No, there was no such a thing.

13 Q You have mentioned in your affidavit something
14 concerning a plan OKAWA proposed you take up with UGAKI,
15 but you have not described the plan in any detail. Is
16 it not a fact that in a voluntary written statement
17 you gave to Major Hummel, you fully stated OKAWA's plan
18 to be as follows:

19 "The plan is to confuse the Imperial Diet by
20 hurling bombs at it; to attack the Metropolitan Police
21 Board and bring about such a situation as the public
22 peace in Tokyo cannot be maintained except by military
23 force; then to guide the situation to such a state that
24 the enforcement of martial law will be necessitated; to
25

1 make the cabinet responsible for it and resign en bloc;
2 to let Minister UGAKI offer to save the situation; and
3 to take some measures so as to make it possible that the
4 Imperial Order will be given to Minister UGAKI to organize
5 the next cabinet. As for measures to save the situation,
6 it is enough that they are to be planned after the
7 Imperial Order is given."

8 Did you get that statement from OKAWA at a time
9 in March 1931 when he visited you in the War Ministry?

10 A This took place probably around the end of
11 February, and the visit was made not to the War Ministry
12 but to my own house. At that time OKAWA expressed such
13 ideas in answer to questions put by me to him.

14 Q And when you drew your affidavit, you referred
15 to the missiles that were described by OKAWA as bombs,
16 as firecrackers, did you not?

17 A Because of the fact that it has already been
18 made clear to this Tribunal that the bomb used was a
19 sort of a paper bomb used in times of maneuvers, I used
20 the word "gihoka," which are not real bombs.

22 Q When you speak of firecrackers, as used in your
23 affidavit, you really mean bombs, do you not?

24 A When OKAWA came to see me in, I think it was,
25 February 1931, he used the word "bombs."

Q Well, as a matter of fact, the Japanese Army

1 in 1931 was not using firecrackers in artillery practice,
2 was it?

3 A Yes, in artillery maneuvers these firecrackers
4 were used.

5 THE PRESIDENT: I am looking into the paper
6 dealing with the calling of witnesses from Russia for
7 cross-examination. So far as I have read the papers --
8 but I have not completed the reading -- the Russian
9 view seems to be right; but I invite the defense to look
10 into it during the luncheon adjournment. I shall continue
11 to look into it.

12 We will adjourn until half-past one.

13 (Whereupon, at 1200, a recess was
14 taken.)
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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

THE PRESIDENT: Colonel Fixel.

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K U N I A K I K O I S O, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

BY COLONEL FIXEL (Continued):

Q Witness, will you please state who delivered
the bombs, which you now call "firecrackers," to
OKAWA or to his henchmen?

A I refer to this particular article as dummy
shells or blank shells or, in Japanese, gihoka, and
at that time I did not know through whose hands these
dummy shells were delivered to OKAWA and his group.

Q Did you later find out that Major-General
TATEKAWA of the General Staff office had released the
bombs and that the bombs were delivered by the accused
HASHIOTO or under his direction?

A When I went to the Vice-Chief of the Army
General Staff to express warning that it was highly
improper to have General Staff officers approach such

1 a person as OKAWA, the Vice-Chief told me or reported
2 to me, rather, that the so-called bomb, that is, the
3 dummy shells, was delivered from TATEKAWA to OKAWA's
4 group. Since then I did not know by whose hand these
5 dummy bombs were delivered to OKAWA's group, and it
6 was for the first time -- and it was in this Tribunal
7 and for the first time that I learned that HASHIMOTO
8 was one of those responsible for the delivery of the
9 bombs.

10 Q After OKAWA outlined his plot to you, did
11 you take any action to have him arrested as a
12 dangerour person?

13 MR. BROOKS: I object to this, if your Honor
14 please. There is no showing that there is any duty
15 on the part of this accused in the office that he
16 held to carry out steps of that nature. Therefore --

17 THE PRESIDENT: It is a simple thing to ask
18 him whether he had any duty in that regard. We do
19 not pretend to know all about the administration of
20 Japan. We do not know who is responsible.

21 MR. BROOKS: If the Tribunal please --

22 THE PRESIDENT: Let him answer the question.
23 He can make an explanation if necessary.

24 MR. BROOKS: I will withdraw my objection
25 if the proper foundation questions are asked.

1 A I believed that if I could or if I succeeded
2 in having OKAWA and his group abandon such a reckless
3 plan, I did not think there was any need to arrest
4 them.

5 Q Did you also have the same opinion with
6 reference to the officers of the Army who participated
7 in the plot?

8 A Because I believed that such plottings or
9 plannings were highly improper, I went to the General
10 Staff office, as I have already told you in my
11 previous reply, to see the Vice-Chief of Staff and
12 to warn him that it was highly improper for officers
13 of the General Staff to participate in anything of
14 the kind.

15 Q Did you have authority to file charges
16 against any officer who took part in a scheme of that
17 kind?

18 A I had no authority to issue any indictment
19 or to make charges.
20

21 Q Did you recommend to anyone in the military
22 service, who had authority to file such charges, to
23 do so?

24 A If there was any necessity to file charges,
25 then there was no need to await my warning, and
inasmuch as I went to the General Staff and issued

1 the warning to stop any rash actions of the kind,
2 the General Staff office -- if an action was necessary,
3 the General Staff did, I believe, take the appropriate
4 steps.

5 Q At any rate, you did not initiate any action
6 to have charges filed against the military personnel
7 who were involved in the plot.

8 A With regard to filing charges, I did nothing.
9 I did not do anything.

10 Q You testified this morning that OKAWA brought
11 the plan, which was outlined and read to you, to your
12 dwelling place. Did you examine the plan at the time
13 he first brought it to you?

14 A When I heard this plan explained to me, and,
15 as I also stated in my writing read by the prosecution,
16 I told OKAWA immediately and point blank that such a
17 reckless plan must be immediately abandoned.

18 Q Did you have a Colonel NAGATA, Tetsuzan,
19 under you in the Military Affairs Bureau as Chief of
20 the Military Affairs Section at that time?

21 A Yes.

22 Q And, isn't it a fact that after you had
23 determined that the plan was reckless or was not
24 adoptable, that you ordered Colonel NAGATA to examine
25 the plan for its consistency?

1 A It seems that there are various parts of the
2 whole story omitted, and unless I explain some of the
3 circumstances at that time, you will not be able to
4 understand the whole situation.
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1 Q I think the question is very simple. It
2 was this: After you had determined that you didn't
3 want to have anything to do with the plan for various
4 reasons, did you order Colonel NAGATA, who was head
5 of the Military Affairs Section, to examine the plan
6 for its consistency?

7 A As I have said before, I warned OKAWA
8 to abandon the plan, but he did not accept my advice.
9 Thereupon, I reported to War Minister UGAKI that
10 OKAWA's -- what OKAWA wanted to submit to the War
11 Minister was a matter in which the War Ministry should
12 under no circumstances be involved. To this advice
13 on my part, War Minister UGAKI said -- ordered me
14 to ask OKAWA to submit his so-called plan in writing
15 and so I met OKAWA again.

16 The document which OKAWA submitted at my
17 direction was written on Japanese white "Hanshi" paper,
18 with the width of 40 to 50 centimeters and a length
19 of some 60 centimeters, and the document consisted of
20 2 sheets on which there was some brush writing, rather
21 rough -- some writing which was done in Japanese
22 brush in a rather rough manner. Although I tried
23 my best to decipher this writing, I could not
24 comprehend what the matter was all about and so I
25 asked OKAWA to read the contents to me. I took what

1 he explained on my memo with a pencil and after
2 putting the 2 documents together, that is, the
3 original document and my memo, I brought these
4 documents to the War Ministry.

5 Although I compared my notes with the
6 document, I could find no consistency or completeness
7 in the plan. And whilst speaking about the fact
8 that OKAWA entertained some such plan as contained
9 in the writings, I ordered NAGATA to examine the
10 matter and find out whether the plan had any con-
11 sistency or not.

12 Q Now, right at that point, may I continue
13 asking questions?

14 At the time you had already made up your
15 mind that the plan was not workable, isn't that true?

16 A Of course, yes.

17 Q And nevertheless you ordered Colonel NAGATA
18 to examine the plan for its consistency after you
19 had decided that the plan was an improper plan?

20 A No, that was not so. The matter had to be
21 reported to the War Minister and no matter -- no
22 explanation could be offered to the War Minister on
23 any plan or any matter in which there was any -- in
24 which there could not be found any consistency, and
25 that is why I ordered NAGATA to find out whether

1 there was any consistency in the plan so that some
2 report, some logical report, could be made.

3 Q Well, now, did you think that a plan to
4 blow up the Diet and to cause a coup d'etat in the
5 Government could be made consistent?

6 A Because the plan itself was highly incon-
7 sistent, I warned OKAWA to abandon the whole idea.

8 Q So you disapproved of the plan yourself, you
9 say, and after you had disapproved the plan, you
10 turned it over to your subordinate in the War Ministry
11 to try to improve the plan, to make it consistent; is
12 that correct?

13 A I did not issue any such order to NAGATA.

14 Q Well, after your visit with General UGAKI,
15 did he pass an opinion on the plan? Did he favor it
16 or was he against it?

17 A I submitted the document to General UGAKI,
18 and one or two days later I went to see him and asked
19 for his reaction.

20 Q What did he say?

21 A UGAKI condemned the plan in the following
22 manner -- the expression he used was "Can such a
23 foolish thing be adopted?" or "Could such an absurd
24 thing be adopted?"

25 Q Did you come away from him with the impression

there was any consistency in the plan so that some report, some logical report, could be made.

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19 for his reaction.

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22 manner -- the expression he used was "Can such a
23 foolish thing be adopted?" or "Could such an absurd
24 thing be adopted?"
25

Q Did you come away from him with the impression

that he was opposed to the plan?

1 A Yes, very apparently so.

2 Q After you had been given this information
3 by the War Minister, is it not a fact that you
4 continued to have Colonel NAGATA still work on the
5 plan to try to make it consistent?

6 A Such facts are -- that is without foundation.

7 Q You state in your affidavit that the prestige
8 of the Army would have been injured if the bombs had
9 remained outstanding. So you desired to secure the
10 return of the bombs; isn't that correct?

11 A Yes.

12 Q And did OKAWA or one of his henchmen have
13 the bombs at that time?

14 A I did not know who had the bombs, but from
15 what I heard later, it was one of OKAWA's followers
16 who had the bombs.

17 Q Was this follower a civilian?

18 A It is said that that person was SHIMIZU,
19 Konosuke who appeared as a witness before this Tribunal.

20 Q And you also said in your affidavit that
21 you intervened with Marquis TOKUGAWA to secure the
22 return of the bombs. When did you first ask the
23 help of TOKUGAWA to secure the return of the bombs?

24 A I think it was around March 17 or 18 that I
25

first asked Marquis TOKUGAWA for his assistance.

1 Q How many times did you request the return
2 of these bombs either from TOKUGAWA or other
3 civilians who had possession or control of them?
4

5 A As I have already said, it was somewhere
6 around March 17 or 18 that I asked the return of the
7 bombs through a certain -- through other persons.
8 At that time, not only was the return of the bombs
9 demanded, but also at the same time it was requested
10 that OKAWA be made to abandon the plan entirely. As
11 a result of Marquis TOKUGAWA's efforts, we succeeded
12 in having OKAWA abandon the plan. However, I did
13 not know whether the bombs, that is, the dummy bombs,
14 themselves were actually returned by OKAWA or was
15 transferred from OKAWA to TOKUGAWA and the matter
16 was left unsettled to later dates. Furthermore, I
17 do not know whether or not Marquis TOKUGAWA talked
18 to OKAWA about these bombs.
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1 Q I asked you this question, which you did not
2 answer. The question was, how many times did you
3 request OKAWA or any of the other civilians who had the
4 bombs to return the bombs before they were actually re-
5 turned?

6 A I do not quite comprehend the question, but I
7 shall reply on my understanding of the question.

8 It was only once that I met TOKUGAWA personally
9 and asked for his good offices to bring about a return
10 of the dummy bombs.

11 Q Well, I am not addressing my question to how
12 many times you spoke to TOKUGAWA, but any civilian
13 in addition to TOKUGAWA. And I asked how many times
14 you requested OKAWA, SHIMIZU, TOKUGAWA, or anyone else
15 who had control of these bombs, to return them before
16 they were returned?

17 A I asked OKAWA once; that was all.

18 Q And is it not a fact that you did not get the
19 bombs back into the War Department until March of 1932?

20 A No.

21 Q When were the bombs returned?

22 A I think it was around December, 1931.

23 Q And is it not a fact that the bombs were kept
24 during that length of time having in view the incident
25 which broke out in October of 1931?

A No, that is entirely different.

1 Q If you were so afraid of the prestige of the
2 army -- that the prestige of the army was to suffer if
3 the bombs were not recaptured, what prevented you from
4 sending an army truck out to the place where the bombs
5 were and seizing the bombs?
6

7 A As I have stated in my affidavit, the dummy
8 shells were delivered to OKAWA by General Staff officers
9 and any attempt to have these bombs returned was the
10 business of the General Staff and not of the Chief of
11 the Military Affairs Bureau of the War Ministry.

12 Q Just a minute, please. What were you inter-
13 meddling into the matter for if that was a matter for
14 the General Staff, to secure the bombs back?

15 A This was actually a duty of the General Staff
16 Office, inasmuch as it involved General Staff officers,
17 but inasmuch as the efforts made by the General Staff
18 in this regard was far from sufficient, and inasmuch as
19 such bombs should not under any circumstances be in the
20 possession of civilians, and because this whole matter
21 reflected upon the prestige and honor of the entire army,
22 I, in my capacity as Chief of the Military Affairs
23 Bureau of the War Ministry, undertook the job of trying
24 to get these bombs back, because it affected the entire
25 army.

1 Q Do you mean to tell this Tribunal that you had
2 to virtually beg a civilian to intervene in behalf of
3 the War Ministry to secure the return of these artillery
4 shells which were War Department property?

5 MR. BROOKS: If your Honor please, I wish to
6 object to that question as being argumentative and
7 being immaterial and irrelevant.

8 I believe that the prosecution has failed to
9 examine their own witness' testimony. The man who had
10 these dummy bombs said that they were in a very small
11 package. In his talk about army trucks, he seems to be
12 unfamiliar with what has taken place in that relation,
13 and therefore this seems to be repetitive and covers a
14 lot of stuff that has taken place previously.

15 THE PRESIDENT: The prosecution could reserve
16 a lot of this for comment later, but it is really fair
17 to the witness to ask for his explanation. I do not
18 regard it as immaterial nor as repetitive.

19
20 The objection is overruled.

21 A I shall reply. The prosecutor has just said
22 that these so-called dummy shells were a property of the
23 War Ministry. That was not so.

24 Q Who did they belong to?

25 A The artillery school.

Q And under whose --

1 THE INTERPRETER: Correction: The infantry
2 school.

3 Q Under whose direction, as far as military af-
4 fairs were concerned, was the artillery school?

5 THE INTERPRETER: Mr. Prosecutor, "artillery
6 school" has been corrected to "infantry school."

7 COLONEL FIXEL: That is right. Please make the
8 correction in my question.

9 A Under the jurisdiction of the Inspector General
10 of Education -- of Military Education.

11 Q Was not the infantry school and its activities
12 also connected with the Military Affairs Bureau of the
13 War Department?

14 A There was no such thing as a Military Affairs
15 section in the War Ministry at that time, and it had no
16 connection with the War Ministry at that time.

17 Q You mean the infantry school was separate
18 from the War Ministry?

19 A It was a training institute under the direct
20 command and under the jurisdiction of the Inspector
21 General of Military Education.

22 Q Was he running a private school, or was it
23 under the jurisdiction of the War Ministry?

24 A The army was divided into three distinct
25 and separate branches -- the War Ministry, the Inspector

1 General of Military Education, and the General Staff
2 Headquarters.

3 Q Well, then, in what way did you become involved
4 in seeking the return of these bombs? You told us that
5 the bombs were in the possession of the General Staff,
6 that you had nothing to do with them, but you seem to
7 have interfered or intervened in someone's behalf or at
8 your own suggestion to secure the return of the bombs.

9 Now, why did you do it?

10 A I did not say that these shells were the proper-
11 ty of the General staff. The General staff officers
12 made arrangements to have the shells delivered to
13 OKAWA's group. The shells themselves were the property
14 of an organization which was under the direct command
15 of the Inspector General of Military Education.

16 As I have stated in my affidavit, I par-
17 ticipated in this matter in connection with the return
18 of these bombs because they reflected upon the honor of
19 the entire army.

20
21 Q Did the Inspector of Military Education know
22 that some of his bombs were in the possession of a
23 civilian?

24 A That I do not know.

25 THE PRESIDENT: Perhaps we have heard enough
about that.

1 Q You knew, did you not, that the matter of
2 disposing of Manchuria and Mongolia, and the question
3 of how to rule them, was undergoing studies prior to
4 July, 1931, in the War Ministry?

5 A I did not know, and such a thing was highly
6 impossible.

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1 Q Did you know an officer by the name of
2 SHIMANUKI? Was he one of your subordinates in July,
3 1931?

4 THE MONITOR: Will you kindly spell that
5 name out?

6 COLONEL FIXEL: S-H-I-M-A-N-U-K-I.

7 A I don't know whether it was in 1931 or 1932,
8 but I think there was a captain by the name of -- by
9 that name was in the Military Administration Section.
10 He was an air officer.

11 Q Did you have a section within your bureau
12 called the Military Service Section, in 1931?

13 A Yes.

14 Q And do you recall a communication that came to
15 the Military Affairs Bureau and was acted upon in the
16 Military Service Section, received from MINE, Yukimatsu,
17 commander of the military police, in which he submitted
18 an estimate to the War Ministry of his requirements in
19 connection with the occupation of Manchuria and Mongolia?
20

21 A There may have been, but I have no recollection.

22 COLONEL FIXEL: May the witness be shown
23 exhibit 3038-B, which has been previously marked for
24 identification?

25 Will the witness refer to the marked portion
thereof, being a letter dated 25 July 1931 from the

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23 identification?

24 Will the witness refer to the marked portion
25 thereof, being a letter dated 25 July 1931 from the

1 commander of the Military Police to the War Minister
2 in reference to a study on the reorganization of the
3 Military Police forces in Manchuria?

4 Q Does the document you are examining bear
5 the seal of SHIMANUKI?

6 A Yes.

7 Q Will you admit the truth of the contents of
8 this document?

9 A Yes.

10 COLONEL FIXEL: I.P.S. document 3203, be-
11 ing an excerpt from exhibit 3038-B, is offered in
12 evidence.

13 THE PRESIDENT: Is that the document he just
14 read?

15 COLONEL FIXEL: The document as to which he
16 admits the truth of the contents.

17 MR. BROOKS: I haven't been served any copies
18 of this, your Honor, and I would like to reserve any
19 objections I may have.

20 THE PRESIDENT: We direct service on you.

21 Meanwhile, it is admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution document 3203
23 will receive exhibit No. 3376.

24 (Whereupon, the document above
25 referred to was marked prosecution exhibit

3376 and received in evidence.)

1 THE PRESIDENT: Do you propose to read it,
2 Colonel?

3 COLONEL FIXEL: Yes, with the permission of
4 the Court I would like to.

5 This report is dated July 25, 1941, and is
6 to MINAMI Jiro, War Minister, from MINE Yukimatsu,
7 Commander of the MP. It has the seal of the Provost
8 Marshal and is marked "Secret."

9 "July 1931

10 "STUDY ON THE ORGANIZATION OF MP FORCE
11 IN MANCHURIA.

12 "MP Headquarters.

13 "We have no need to enlarge upon the fact
14 that in the future war our Empire should secure com-
15 plete possession of Manchuria and Mongolia from the
16 standpoints of maintenance of fighting ability and of
17 self-sufficiency.

18 "And how our Empire should manage and adminis-
19 trate Manchuria and Mongolia in the above case is al-
20 ready being studied by the respective responsible or-
21 gans. Along with this, the necessity of inquiry on the
22 MP in the occupied area is also evident.

23 "The necessity of the MP activities when en-
24 forcing military administration has been proved by a
25

1 number of wars, and especially, as the recent war-
2 fares are tending to be more of a psychological nature,
3 its necessity is greatly increasing. Furthermore, as to
4 the present situation in Manchuria and Mongolia, the
5 pending problems between Japan and China are being
6 aggravated day by day, and our military police in
7 Manchuria are now being greatly pressed with activity
8 as the necessity for the Army to use police authority
9 and to secretly detect and investigate the foreign
10 agencies has suddenly increased recently. I believe
11 it most necessary and timely to quietly consider the
12 changing phases of our future military operations on
13 this occasion, and based on the above, to study the
14 application, organization, strength, etc., of the mili-
15 tary police. Therefore, I will state my following
16 opinions and beg your clear judgment.

17 "GIST OF OPINION

18 "If a complete military occupation of a cer-
19 tain area in Manchuria and Mongolia is planned in our
20 future military operations, a minimum force of about
21 5,000 military police (with the addition of some Chinese
22 and Korean military police assistants) besides a part
23 of the occupation area garrison is required in order
24 to maintain peace and order in the said area. However,
25 the whole number of our military police (including ex-

1 service men) is far from sufficient to meet this re-
2 quirement. Therefore, in order to increase this foot-
3 ing in the future, the present organization and the
4 full number of the Kwantung MP should be revised and
5 increased, and furthermore, exceptions for extraordinary
6 drafting should be provided for, for the purpose of
7 filling up the deficiency.

8 "The total number of military police require-
9 ments in Manchuria will be about 5,000 military police
10 and approximately 20,000 Chinese (Korean) auxiliary
11 MP's.

12 "The basis of this estimation approves, on
13 the whole, the 'Study on the Administration of the
14 Occupied Territories in Manchuria and Mongolia,' com-
15 piled by the KWANTUNG Army Headquarters. Namely, about
16 25,000 military policemen (including assistants) will
17 be placed in the hypothetic administrative area of about
18 45,000 square 'ri' having a population of approximate-
19 ly 27,000,000, the rate being one military policeman
20 for a population of about 1,100 in an area of 1.8 square
21 'ri.'"

22 THE PRESIDENT: Captain Brooks.

23 MR. BROOKS: If your Honor please, on the
24 Japanese copy it shows that this is an excerpt and
25 also on the top of this it shows this is an excerpt,

1 and I am informed that the portions that have been
2 left out may change the meaning considerably, so I
3 ask to be heard on this at a later time, when I have
4 had a chance to thoroughly check both.

5 THE PRESIDENT: You can get it in the re-
6 examination, if that is the proper course.

7 THE WITNESS: May I say a word to you, Mr.
8 Prosecutor?

9 COLONEL FIXEL: I don't know why I should
10 be questioned, if the Tribunal please. I have no
11 further questions on that.

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1 Q In September, 1931, did you feel that there
2 was a very critical situation in Manchuria?

3 A As I have stated in my affidavit, the period
4 cannot be confined to this single month of September
5 but for a period of one or two years previously. Due
6 to various pending issues in China and Manchuria, the
7 feelings between Japan and China were daily becoming
8 aggravated.

9 Q And did you ask MINAMI's consent to take the
10 matter up with the General Staff to seek a decision
11 as to what should be done?

12 A By this question, are you referring to the
13 opinion advanced by the commander of the M.P. just
14 referred to?

15 Q No, I am referring to the conversation, if
16 you had such a conversation, with General MINAMI which
17 ultimately led to the dispatch of General TATEKAWA to
18 Mukden.

19 A I have had no conversation with War Minister
20 MINAMI in connection with the dispatch of General
21 TATEKAWA to Manchuria.

22 Q Did you have a conversation with General
23 MINAMI with reference to the critical situation that
24 existed in Manchuria at that time, early September?
25

A As I have clearly stated in my affidavit, the

1 situation between Japan and China and between Japan
2 and Manchuria was becoming daily more and more critical
3 and in the light of the strength within the Japanese
4 Army itself, I expressed my opinion to the Minister
5 and the Vice-Minister of War -- I do not remember the
6 date -- to the effect that no matter what happened,
7 if some trouble should break open, that trouble should
8 be settled peacefully and war must be avoided at any
9 cost.

10 Q Did you get the permission of MINAMI to go to
11 the General Staff and talk the matter over at the
12 General Staff?
13

14 A I have never received any such permission
15 nor any order.

16 Q Did you go to the General Staff to discuss this
17 question that you had taken up with General MINAMI,
18 about which you were so fearful?

19 A As I have stated in my affidavit, I expressed
20 the same opinion to the Vice Chief of the Army General
21 Staff.

22 Q Did you express that opinion to him in a
23 personal or an official capacity?

24 A Well, I received no directions of any kind
25 from General MINAMI, but before becoming Chief of the
Military Affairs Bureau of the War Office I was Chief

1 of the Materiel Mobilization and Procurement Bureau
2 of the War Ministry and was very familiar with the
3 situation of our armed forces as well as the condition
4 of our war production industries, and after becoming
5 Chief of the Military Affairs Bureau I obtained a far
6 better and more thorough understanding of the situation
7 which actually existed between China and Japan. With
8 this background I expressed the opinion, to which I
9 have just referred, in my position as Chief of the
10 Military Affairs Bureau.
11

12 Q Whom did you express the opinion to? Who
13 was present when this opinion was expressed?

14 A Only the Vice Chief of Staff.

15 Q That was General NINOMIYA?

16 A Yes.

17 Q Did you mention TATEKAWA's name to NINOMIYA
18 at that time as a suitable person to be entrusted with
19 the mission to stop an outbreak in Manchuria?

20 A No.

21 Q Did you ever mention it at another time to
22 any person connected with the General Staff?

23 A No.
24
25

1 Q When did you find out that TATEKAWA was the
2 party selected to go to Manchuria on a mission in
3 connection with the orders of the General Staff?

4 A I do not recollect the date, but I do recall
5 that a telephone message was sent from the Vice-Chief
6 of Staff to the office of the Chief of the Military
7 Affairs Bureau to that effect.

8 Q Was it before the outbreak of the Mukden
9 Incident?

10 A Before.

11 Q And you then received information that
12 TATEKAWA was the party selected to go to Mukden, isn't
13 that right?

14 A Yes, I heard that for the first time then.

15 Q And isn't it a fact that you received that
16 information several days before the Mukden Incident
17 occurred?

18 A I have no clear recollection as to dates.

19 Q Did you have a clear recollection as to
20 dates two years ago when you gave a written statement
21 to Major Hummel of the International Prosecution Sec-
22 tion in connection with this particular point?

23 A No.

24 Q And if it was stated in such statement that
25 it was expected that TATEKAWA would arrive at the

1 headquarters of the Kwantung Army by September 15 at
2 the latest, would you say that your memory at the
3 time you wrote that statement was better than it is
4 today on that point?

5 THE PRESIDENT: I suggest you come more
6 directly to what he said two years ago, Colonel.
7 Cut out this test of his memory.

8 A What the prosecutor has just said seems to
9 be a mistake in recollection on his part. I have
10 not said anything of the kind to Major Hummel. The
11 date "15th" was written on my memo. But you will
12 understand, if you will re-read my affidavit, and
13 that is that after entering Sugamo Prison I have
14 tried to trace my very faint recollections in trying
15 to approach as accurate a date as possible, but I
16 have stated that it is impossible or that it is in-
17 escapable that I might be mistaken as to dates as
18 well as facts.

19 Q Well, now --

20 THE PRESIDENT: Before we recess, I wish to
21 refer to that question of the Russian witness brought
22 here for cross-examination. General Zaryanov and I
23 have gone through the papers together. It appears
24 that on the 9th of June Major Blakeney signified his
25 desire to get three Russian nationals brought across

1 from the USSR as well as certain other witnesses.
2 General Zaryanov contends that the three Russian
3 nationals must necessarily have included Budarin be-
4 cause there was no way of making up three without
5 him.

6 On the 17th of June an order was made in
7 open court for the production of all witnesses who
8 had not then been produced. That order was wide
9 enough to include Budarin if he were one of the
10 three Russian nationals. Later, the Chief Prosecu-
11 tor filed an application asking that the time for the
12 production of the witnesses been extended. In the
13 application he named Budarin among others. The ap-
14 plication came before me in Chambers on the 20th of
15 August. Major Furness and Major Blakeney were pre-
16 sent according to the record. I read the names of
17 the witnesses, including Budarin. General Vasiliev
18 also mentioned Budarin in his remarks. Major Blake-
19 ney spoke at considerable length, but nobody pointed
20 out that Budarin was not required, and the Chief
21 Prosecutor's application was granted in toto.
22

23 We will hear your reply after the recess.
24 We will recess for fifteen minutes.

25 MR. FURNESS: May I say that Major Blakeney
is not here; and, if his name was mentioned, it should

1 have been stated when he was here.

2 THE PRESIDENT: How do I know who is in
3 court? I cannot keep the whole of the counsel in
4 court in my mind. This court happens to be crowded
5 with counsel. I know you are here. He can reply
6 to me. Why be so disagreeable about it anyhow?

7 We will recess for fifteen minutes.

8 (Whereupon, at 1445, a recess
9 was taken until 1500, after which the pro-
10 ceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Major Blakeney.

4 MR. BLAKENEY: May I say a few words?

5 THE PRESIDENT: Certainly.

6 MR. BLAKENEY: In connection with the matter
7 of defense request for witnesses to be produced for
8 cross-examination, I should like to point out that the
9 first formal mention of this matter in the Tribunal
10 occurred on the 28th of May, pages 23,153 et sequentia
11 of the record, at which time it was requested that cer-
12 tain named witnesses, twelve in number, be brought for
13 cross-examination. The Tribunal at that time directed
14 that the matter be fully argued at a future date. That
15 argument was presented to the Tribunal on the 9th of
16 June at pages 23,788 et sequentia of the record.

17 On that occasion, in presenting the request
18 for the defense, I named the specific witnesses whom
19 we desired and stated, in brief terms, the reasons for
20 which we desired the production of each. As the
21 President has stated, I did say in the course of that
22 argument that the defense had requested the production
23 for cross-examination of three Soviet nationals among
24 other people. The three Soviet nationals whom I had
25 in mind and whom the defense had requested at the time

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18 for the defense, I named the specific witnesses whom
19 we desired and stated, in brief terms, the reasons for
20 which we desired the production of each. As the
21 President has stated, I did say in the course of that
22 argument that the defense had requested the production
23 for cross-examination of three Soviet nationals among
24 other people. The three Soviet nationals whom I had
25 in mind and whom the defense had requested at the time

1 of the introduction into evidence of the documents,
2 respectively were the witnesses Batarshin and
3 Chernopyatko and the former Foreign Commissar Litvinov,
4 excerpts from whose diary were introduced in evidence
5 and whose production for cross-examination was requested
6 on page 7,718 of the record, that having been on the
7 14th of October, 1946. As I have said, however, in
8 presenting argument on the motion for production of
9 witnesses, I did specify by name those who were then
10 desired and I confined the argument to those who had
11 given affidavits and whom we desired. And in naming the
12 witnesses desired I named the two Soviet witnesses who
13 have already appeared within the past week, Batarshin
14 and Chernopyatko.

15 The order of the Tribunal was entered on the
16 17th of June at page 24,517 of the record. In that
17 order, after naming specifically five witnesses and
18 disposing of their peculiar cases on other grounds,
19 the Tribunal continued as follows: "That it orders" --
20 I am quoting -- "That it orders the prosecution to
21 produce for cross-examination the other witnesses
22 mentioned in the said defense motion."

23 /s I have said, the witness Budarin was not
24 mentioned in the said defense motion. I, therefore,
25 have assumed then, as I assumed at all later times, that

1 the witness Budarin was not included within the tenor
2 of the order of the Tribunal. And, parenthetically,
3 the production of the witness Budarin was not requested
4 when his affidavit was produced, was tendered, which
5 I assume would be the only appropriate time for enter-
6 ing such a request.

7 Notwithstanding that the defense had and has
8 never requested the production of this witness, it now
9 appears that when the prosecution moved on the 19th of
10 August, or two days after the order of the Tribunal
11 of the 17th of June had by its terms become effective,
12 for an extension of time, it appears, I say, that the
13 name of the witness Budarin was included among those
14 for whom it was desired that an extension of time be
15 granted before their production. In Chambers it was
16 I who responded to the application and I can say only
17 that I gave no thought to the question of the addition
18 by the prosecution of the name of another witness than
19 those already requested by the defense. I thought then
20 and I think now that if the matter then being agitated
21 was of an extension of time within which to produce
22 witnesses requested by the defense, that the request of
23 the defense should govern in the matter of what witnesses
24 were under discussion.
25

I, therefore, submit to the Tribunal that not only

1 is it quite clear that the witness Budarin was never
2 comprehended within the terms of the order now in
3 question, but if he had been he is now tendered for
4 cross-examination too late because the order of the
5 Tribunal as extended allowed the prosecution until
6 the 17th day of October to produce the witnesses, fail-
7 ing which, in accordance with the original order, their
8 testimony was to stand stricken or disregarded. There-
9 fore, after the expiration of the time so limited and
10 after the passage of the 17th day of October the order
11 was executed, not executory. The testimony of the
12 witness would have been disregarded and his production
13 on the third of November for cross-examination would
14 in no way affect the position.

15 As has been stated to the Tribunal today, the
16 defense do not desire to cross-examine the witness
17 and what I have said is only in the endeavor that
18 the record of the Tribunal may be kept straight.
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1 THE PRESIDENT: General Vasiliev.

2 GENERAL VASILIEV: Your Honor, I confirm our
3 request for the permission of the Tribunal to produce
4 the witness Budarin who has specially arrived in Tokyo.
5 I have already informed the Tribunal as to the cir-
6 cumstances of the production of this witness before
7 the Tribunal.

8 When the question of the production of our
9 witnesses was being discussed on June the 9th the
10 defense presented no specific list, and I even had
11 the impression that the defense did not request the
12 production of witnesses, Soviet nationals. This
13 may be found on page 23,822 of the record. However,
14 Mr. Blakeney said that I misunderstood him and that
15 he also raised the question as to the Soviet nationals
16 as well. This may be found at page 23,826 of the
17 record. As Mr. Blakeney admits himself, he wanted
18 that three Russian witnesses should be produced, and
19 the third one being Mr. Litvinov. This is quite
20 unexpected for us and we hear about it for the
21 first time.

22 The decision of the Tribunal which was
23 announced on June the 17th was of a general character,
24 to the effect that the witnesses should be produced
25 for cross-examination, otherwise the affidavits --

1 their affidavits would be disregarded. The names of
2 the witnesses were not mentioned. Our understanding
3 was that Mr. Budarin was included as well:

4 When it was necessary to extend the time
5 for the production of witnesses, in our motion ad-
6 dressed to the Tribunal we gave the names of the
7 witnesses, including the name of Mr. Budarin. When
8 the matter was being discussed in Chambers the name
9 of Budarin was mentioned as well. This was on August
10 the 20th.

11 On October the 16th, that is to say before
12 the expiration of the time for the production of
13 witnesses, Mr. Chief of Counsel made a statement
14 in which he said that the third witness was delayed
15 in Vladivostok due to illness, and that the other
16 five witnesses have arrived. The defense had no ob-
17 jections and I received no direction from the Tribunal.
18 Consequently I was under the impression that we have
19 to produce the fifth witness as soon as he recovered --
20 the witness Budarin as soon as he recovered. When our
21 five witnesses arrived I made a statement to the Tri-
22 bunal in which I mentioned that the sixth witness,
23 Mr. Budarin, was delayed in Vladivostok due to his
24 illness.
25

RUSSIAN MONITOR: That was on October 24 and

could be found at page 31,705 of the record.

1
2 GENERAL VASILIEV: The defense again made no
3 reply to that. Finally last week I heard that the
4 defense allegedly did not desire to cross-examine
5 the witness Budarin. I requested that the defense
6 should specify their reply, but when I received it,
7 on the same day I was informed that the witness Budarin
8 was on board ship on the way to Tokyo.

9 We have only one desire, to fully comply with
10 the decision of the Tribunal with regard to the pro-
11 duction of witnesses. As soon as the witness Budarin --
12 as far as the witness Budarin is in Tokyo, we insist
13 that this witness be produced before the Tribunal for
14 the purposes of which I have already informed the
15 Tribunal, namely, that the witness confirm his affi-
16 davit under oath; secondly, to read those parts of
17 the affidavit which haven't been previously read into
18 the record; and, thirdly, to entitle the witness to
19 answer the questions of the members of the Tribunal,
20 and as I understand some members of the Tribunal have
21 such questions.
22

23 I would like to mention it once more that the
24 defense have no grounds for asking the Tribunal, under
25 the existing circumstances to disregard Budarin's
affidavit.

1 THE PRESIDENT: Well, the decision given
2 this morning stands until my colleagues notify me of
3 their desire to change it. I have heard nothing from
4 them so far. We will consider what you have both
5 said.

6 MR. BLAKENEY: I should like, if I may, to
7 ask that the prosecution be instructed to state the
8 page of the record at which can be found any state-
9 ment that Members of the Tribunal desire to interro-
10 gate this witness.

11 THE PRESIDENT: Well, I understand one Member
12 does, but I do not know of any others, and I do not
13 know of any page of the record where it appears.

14 MR. BLAKENEY: I didn't know how the prosecu-
15 tor would know.

16 THE PRESIDENT: Well, I did not inform him.

17 GENERAL VASILIEV: Maybe I misunderstood your
18 words, Mr. President, but I understood that you men-
19 tioned that two Members of the Tribunal had some ques-
20 tions to the witness. Maybe I misunderstood the trans-
21 lation.
22

23 THE PRESIDENT: You may be right. One at
24 least did suggest that he would like to ask a question,
25 and I may have mentioned it in court. I do not know.
I do not recollect everything I say.

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2 this morning stands until my colleagues notify me of
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21 lation.
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23 THE PRESIDENT: You may be right. One at
24 least did suggest that he would like to ask a question,
25 and I may have mentioned it in court. I do not know.
I do not recollect everything I say.

1 I am told I did mention that in court this
2 morning, but I do not recall doing so. It was quite
3 proper that I should do it, of course.

4 GENERAL VASILIEV: I can say definitely,
5 your Honor, when I check the record. I am saying
6 this just now only on the basis of the oral inter-
7 pretation.

8 THE PRESIDENT: Well, two, at least, of my
9 colleagues assure me that I did say that this morn-
10 ing.

11 GENERAL VASILIEV: I am quite satisfied,
12 your Honor. So I expect that the Tribunal will give
13 its decision on the matter.

14 THE PRESIDENT: As I said, the Tribunal
15 has already given its decision, General, but after
16 hearing you they may or may not decide to make an
17 alteration. That is for the other Members of the
18 Court.

19 GENERAL VASILIEV: Thank you, your Honor.

20 THE PRESIDENT: Well, are we finished with
21 the witness yet?

22 BY COLONEL FIXEL (Continued):

23 Q I was asking you, Mr. Witness, was it not
24 expected that TATEKAWA would arrive at the Kwantung
25 Army Headquarters by at least the 15th of September,

1931?

1 A As I have already replied to that question
2 prior to the recess, there was some error in notes
3 that I made on my memo sheet. The notation should
4 have been as follows. To my inquiry of the Vice-
5 Chief of Staff whether there was any report from
6 TATEKAWA, the Vice-Chief replied to me as follows.
7 The Vice-Chief said, in reply to my inquiry, that
8 "It is about time that TATEKAWA has arrived on the
9 spot," that is, in Manchuria; and continuing he said:
10 "Probably he is holding discussions with the Command-
11 ing General of the Kwantung Army, for there is as yet
12 no reply from him." And it was a mistake on my part
13 to have written the 15th on my memo. That is how I
14 feel. It was a mistake.

16 Q And was it also a mistake that you stated
17 in your memorandum that you gave to Major Hummel,
18 that General TATEKAWA spent many days in discussing
19 the situation in Manchuria with the Staff of the
20 Headquarters of the Kwantung Army, and that is why
21 he was delayed in getting to Mukden? Was that also
22 a mistake?

23 A I have absolutely not written such a thing
24 in my memorandum.

25 Q Did you know what instructions TATEKAWA

1931?

1 A As I have already replied to that question
2 prior to the recess, there was some error in notes
3 that I made on my memo sheet. The notation should
4 have been as follows. To my inquiry of the Vice-
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17 in your memorandum that you gave to Major Hummel,
18 that General TATEKAWA spent many days in discussing
19 the situation in Manchuria with the Staff of the
20 Headquarters of the Kwantung Army, and that is why
21 he was delayed in getting to Mukden? Was that also
22 a mistake?
23

24 A I have absolutely not written such a thing
25 in my memorandum.

Q Did you know what instructions TATEKAWA

1 received from the General Staff before he left for
2 Mukden?

3 A I do not know what kind of instructions he
4 received nor on what date he departed.

5 Q Now, after he had departed and you received
6 a telephone message or a message from the General
7 Staff that TATEKAWA was on his way and should arrive
8 shortly, do you still say at that time you didn't
9 know what he was going up there for?

10 A No, that is not so. What I said, I knew
11 his purpose in going to Manchuria, and what I told
12 you was that I did not and do not know what the
13 instruction was, what its contents were, how it was
14 written, what the nature of it was.

15 Q Apart from that what was the purpose of his
16 going there?

17 A That is as I have clearly set forth in my
18 affidavit.

19 Q Wasn't it to prevent the outbreak of an
20 incident between the Chinese and the Japanese?

21 A The purpose of his mission was that whatever
22 may be the situation or whatever may be the develop-
23 ments every patience and forbearance must be exer-
24 cised.

25 Q Was there telegraph communication at that

1 time between Tokyo, Port Arthur, and Mukden?

2 A Yes, of course.

3 Q Why was such a slow and uncertain method of
4 communicating a simple request or decision of the
5 General Staff adopted if telegraph communication was
6 available?

7 A It is my interpretation that in the light
8 of the situation within the army, and in order to tho-
9 roughly have the ideas of the Chief of the General
10 Staff and the War Minister understood by the people
11 on the spot, a person carrying such detailed infor-
12 mation should be dispatched.

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1 Q Did you discuss the purpose of TATEKAWA's trip
2 with him before he left on his mission for Mukden?

3 A No.

4 Q Was TATEKAWA, the man who went to Mukden, the
5 same person of the General Staff who was instrumental
6 in releasing the bombs to OKAWA in the previous March?

7 A Yes, the same person.

8 Q Now, was TATEKAWA's failure to proceed expe-
9 ditiously to Mukden and his failure to deliver the
10 orders received by him upon his arrival in Mukden be-
11 cause you and he had a pre-arranged plan to permit an
12 incident to occur?

13 A Absolutely not. I have heard that that has
14 been entered in HARADA's Diary, but that is completely
15 without foundation. It is a complete falsehood and
16 a fabrication on his part.

17 Q While you were Chief of the Military Affairs
18 Bureau, did you know what action the Kwantung Army
19 was taking in connection with the matter of Manchukuoan
20 independence? In other words, was the Kwantung Army
21 guiding the independence movement in any way in Man-
22 chukuo for the establishment of the regency?

23 A May I inquire whether you are referring to
24 matters after the outbreak of the Manchurian Incident?
25

A Yes, that is right.

1 A I think, if my memory serves me right, that
2 on the 15th of November, the War Minister sent
3 instructions to the commanding general of the Kwantung
4 Army to the effect that the Kwantung Army should not
5 under any circumstances participate in political ques-
6 tions which center around Mr. Pu-Yi. And I think the
7 Kwantung Army was not doing anything of the kind in
8 pursuance of this instruction.

9 Q Did the document come to your attention that
10 was forwarded by MIYAKI, the Chief of Staff of the
11 Kwantung Army, to the Vice-Minister of War on or about
12 5 December 1931, dealing with this very matter; that
13 is, the policy of guiding the independence movement
14 in Manchuria at that time?

15 A I have no recollection.

16 COLONEL FIXEL: May the witness be shown an
17 excerpt, being serial No. 149, from exhibit 3038-G,
18 which has previously been accepted for identification
19 by the Tribunal, being a report dated 5 December 1931,
20 from the Chief of Staff, Kwantung Army, to the Vice-
21 Minister of War, pertaining to the temporary system
22 being carried out until the establishment of the new
23 regime.
24

25 Q Will you state whether the document referred
to passed through your office while you were Chief of

1 the Military Affairs Bureau, and do you admit the truth
2 of the contents of the document?

3 MR. BROOKS: While the witness is looking
4 at it, your Honor, I would like to have a copy of any-
5 thing shown to the witness because I am unable to
6 follow the questions; I don't know whether he is mis-
7 leading or what he is quoting from. And it would save
8 a lot of time if the counsel were furnished copies
9 documents in advance, as the defense has been required
10 to do under similar circumstances.

11 If anything is shown to a witness in the box
12 upon which he is being questioned, I understand his
13 defense counsel should have a copy so that he can fol-
14 low the question. I do not have any chance to look
15 at any record of transcript until it is too late.

16 THE PRESIDENT: That is contrary to my under-
17 standing of these matters. The effectiveness of a
18 cross-examination may be entirely destroyed if such
19 a procedure were adopted. The element of surprise
20 might disappear in that way.

21 The best example that I can recall of an
22 effective cross-examination was in the Piggott Forgery
23 case, where Lord Russell kept the letters in his hands
24 until the conclusion of his cross-examination. And
25 as Lord Patrick reminds me, I have repeatedly told you

1 that in the course of this trial.

2 MR. BROOKS: If your Honor please, I am not
3 asking for it in advance. I am saying that now that
4 it has been shown to the witness and he is asking ques-
5 tions on it, I should have a copy at that time to
6 protect his interests. I could not make an objection
7 on it until it is offered; I understand that.

8 THE PRESIDENT: You must get it in due time
9 to re-examine on it, but not any earlier.

10 MR. BROOKS: That is a customary procedure
11 in our courts to prevent unfair advantage being taken
12 of the defense.

13 THE PRESIDENT: We will proceed as before.

14 Q You admit the truth of the contents of the
15 document?

16 A I shall reply. This is a document upon which
17 I have never cast my eyes. The contents of this document
18 seem to be personal opinions; something that has never
19 been adopted. There are seals impressed on this docu-
20 ment, but my own seal does not appear on it. Neither
21 is there a seal of the section chief. It bears only
22 the seal of one SUZUKI.

23
24 Q It does appear, however, that it went through
25 the Military Affairs Section; isn't that true?

A No, not the Military Affairs Section. The

1 Military Administration Section; the seal of that section
2 is on this document.

3 Q Isn't there a seal dated 9 December 1931,
4 Military Affairs Section, on that document?

5 A No; the Military Administration Section: the
6 Gunji-ka.

7 THE PRESIDENT: We propose to adjourn, now,
8 for a conference of the Judges.

9 We will adjourn until half-past nine tomorrow
10 morning.

11 (Whereupon, at 1600, an adjournment
12 was taken until Tuesday, 4 November 1947, at
13 0930.)

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4 NOVEMBER 1947

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EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Eviden</u>
3274		3377	Excerpt from Exhibit No. 3038-G - Letter dated 5 December 1931 from MIYAKE, Koji, Chief of Staff, Kwantung Army to SUGIYAMA, Vice Minister of War re Matters Concerning the Delivery of Documents Pertaining to Plans for the Temporary System now being Carried out in the Policy Toward Manchuria and Mongolia		3233
		3378	The Guidance of the Military Government of Manchoukuo	32354	
612		3378-A	Excerpt therefrom		32354
		3379	Letter dated 29 December 1932 from Chief of Staff of Kwantung Army, KOISO, Kuniaki to Vice-War Minister YANAGAWA, Keisuke - The Outline re the General Policy for Manchoukuo Customs Duty	32376	
1302		3379-A	Excerpt therefrom		32377
		3380	Army Manchurian Secret File for 1934	32381	
624		3380-A	Excerpt therefrom		32382
		3381	The Great Secret Manchurian Diary for the Year 1933	32385	
989		3381-A	Excerpt therefrom		32389

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(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
3030-N		3382	Excerpt from Exhibit No. 3201 - Speech by Minister of State KOISO, Kuniaki, at the Meeting of the Budget Committee on 17 February 1940 in the House of Repre- sentatives, 75th Session of the Imperial Diet		32421

Tuesday, 4 November 1947

- - -

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE R. B. PAL, Member
from India, not sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI, who is represented by counsel. The
5 prison surgeon at Sugamo certifies that he is too ill
6 to attend the trial today. The certificate will be
7 recorded and filed.

8 Colonel Fixel.

9 - - -

10 K U N I A K I K O I S O, an accused, resumed the
11 stand and testified through Japanese interpreters
12 as follows:

13 BY COLONEL FIXEL (Continued):

14 Q You testified yesterday that the Military
15 Administration section was the one that received the
16 document which you had examined, which was an excerpt
17 from exhibit 3038-G. Is that correct?

18 A I did not answer that the Military administra-
19 tion -- Military Administrative section was the section
20 that received it.

21 Q Was not the Military Administration section
22 which you call the Gunji-Ka under your jurisdiction as
23 Chief of the Military Affairs Bureau?

24 A It was one of the sections under the control
25 of the Military Affairs Bureau.

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1 Q And it also appears on the document, does it
2 not, that two copies of the appendix to the document
3 were retained in the custody of the Military Affairs
4 Section, or Military Administration Section as you
5 called it?

6 A On looking at this document, I cannot find the
7 seal of the Chief of the Military Administration Sec-
8 tion, so I don't believe he saw it either, and therefore
9 it is impossible to ascertain how many copies were kept
10 in the custody of the Military Administration Section.

11 Q Do you recall whether you were absent or sick
12 or not on duty at the time when this document apparently
13 came to your Bureau?

14 A I feel sure that both myself, as Chief of the
15 Military Affairs Bureau, and the Chief of the Military
16 Administration Section were on duty in the War Ministry.

17 Q And is it not true that a document of this
18 nature, which involved a policy matter of great impor-
19 tance, would have been brought to your attention by a
20 sub-chief of one of those sections before it went to the
21 Vice-Minister of War?

22 A If the document was of such importance as to
23 be shown to the Vice-Minister of War, it is but natural
24 that it should first be shown to the Chief of the
25 Military Affairs Bureau, but on looking over this documen

1 it has come to me that if this -- if the seal of someone
2 who was acting for the Chief of the Military Administra-
3 tion Section should appear on this document, it should
4 also bear the words "by" or "proxy."

5 Q Was FUZUKI whose name appears on the document
6 one of your subordinates?

7 A He was a member of the Military Administration
8 Section.

9 Q And therefore he was one of your subordinates,
10 was he not?

11 A Yes. I recall that with drafts of this nature
12 when there was some doubt as to whether it was a docu-
13 ment worth sending on in order to be adopted as a final
14 policy, the lower members of our section would often
15 send it half in a private capacity to the chief of their
16 section and after -- and if after studying that docu-
17 ment the chief of the section decided that it was a
18 measure worth adopting, then the document would be sent
19 on through official channels in its official form.
20

21 THE MONITOR: Correction: "Semi-officially"
22 instead of "half by private capacity" or words to that
23 effect.

24 Q And it does appear on the document, does it
25 not, that it was sent to SUGIYAMA, Vice-Minister of War?

MR. BROOKS: May the witness be allowed to

1 it has come to me that if this -- if the seal of someone
2 who was acting for the Chief of the Military Administra-
3 tion Section should appear on this document, it should
4 also bear the words "by" or "proxy."

5 Q Was SUZUKI whose name appears on the document
6 one of your subordinates?

7 A He was a member of the Military Administration
8 Section.

9 Q And therefore he was one of your subordinates,
10 was he not?

11 A Yes. I recall that with drafts of this nature
12 when there was some doubt as to whether it was a docu-
13 ment worth sending on in order to be adopted as a final
14 policy, the lower members of our section would often
15 send it half in a private capacity to the chief of their
16 section and after -- and if after studying that docu-
17 ment the chief of the section decided that it was a
18 measure worth adopting, then the document would be sent
19 on through official channels in its official form.
20

21 THE MONITOR: Correction: "Semi-officially"
22 instead of "half by private capacity" or words to that
23 effect.

24 Q And it does appear on the document, does it
25 not, that it was sent to SUGIYAMA, Vice-Minister of War?

MR. BROOKS: May the witness be allowed to

1 complete his answer? The prosecutor interrupted his
2 answer.

3 THE PRESIDENT: I did not realize that you
4 interrupted an answer, but you may have done so, Colonel.
5 It is not always easy to appreciate that.

6 COLONEL FIXEL: I do not want to cut the wit-
7 ness off if the Tribunal feels he should continue.

8 THE WITNESS: May I continue my explanation?

9 A (Continuing) This document I have seen here for
10 the first time. On looking through its contents, I can
11 see no indication that it was ever adopted by the War
12 Ministry later.

13 Q Regardless of whether it was adopted or not,
14 would you say that MIYAKE, the Chief of Staff of the
15 Kwantung Army, would send to the War Ministry an untrue
16 document -- a document the contents of which were untrue?
17

18 A No, certainly not.

19 Q Then I ask you whether you will admit the truth
20 of the contents of the document, regardless of whether
21 it was adopted by the War Ministry or not?

22 A Since I did not see the document -- since I
23 have no remembrance of having seen the document, I can-
24 not reply to that question.

25 Q Well, will you examine the document now, and
then will you reply to the question?

1 MR. BROOKS: If your Honors please, I think it
2 is high time that the counsel for the defense should
3 have a copy of what this witness is being cross-examined
4 on, and especially when he is asked to admit the truth
5 of a document. I do not even know what they are talking
6 about; I have never seen it.

7 THE PRESIDENT: That point has arisen and has
8 been decided more than once, Captain Brooks, and I can
9 assure you that there is not yet a majority for its
10 reversal.

11 MR. BROOKS: I object to the question, then, on
12 the ground that it is immaterial and irrelevant, since
13 it is on a document that is not in evidence.

14 THE PRESIDENT: The objection is overruled.

15 A I have looked through the document.

16 COLONEL FIXEL: I did not hear the answer.

17 THE WITNESS: I have finished looking through
18 the document.

19 Q What will the answer be? Do you admit the
20 truth of the contents of the document?

21 A The Kwantung Army may have conducted studies
22 on this matter, but I never knew of it until I saw it
23 here.
24
25

1 Q Will you answer the question? Will you say
2 whether in your opinion this document, which was for-
3 ward~~ed~~ed by MIYAKE, Ch of of Staff of the Kwantung Army,
4 to the War Ministry and which was examined in your
5 bureau on the way to the War Ministry, was a document
6 of which you can say that the contents are true?

7 MR. BROOKS: I object to the question as be-
8 ing repetitive. Furthermore, it calls for a conclu-
9 sion of the witness and an opinion of the witness.

10 THE PRESIDENT: We will take his answer, and
11 then after we see the document we will see whether
12 any further objection is open, if the document is
13 tendered, of course.

14 A I have no recollection of ever having made any
15 reply to this document -- of ever having made any study
16 of this document during my period in office as Chief
17 of the Military Affairs Bureau. However, on looking
18 at this document I see on the margin near each numbered
19 paragraph, written in a red pencil, the words "Good"
20 or "True" and other criticisms, and therefore it is
21 easy to infer that after reaching the War Ministry this
22 document was looked into by someone and criticized --
23 and commented on by him.

24 THE MONITOR: Correction: "Commented by some-
25 one" instead of "him."

1 Q Will you answer the question?

2 THE PRESIDENT: It is a simple question,
3 witness. Do you know whether the contents of that
4 document are correct or not?

5 A I do believe that this document was accurate-
6 ly drawn up by the Kwantung Army and sent on.

7 COLONEL FIXEL: I offer IPS document 3204,
8 which is an excerpt of exhibit 3038-G, in evidence.

9 MR. BROOKS: If your Honor please, just
10 having received the document, I would like to have a
11 chance to look at it before I make a reply.

12 THE PRESIDENT: It is a short document.

13 MR. BROOKS: In order to save time, if your
14 Honor please, I will make my objection later when I
15 have had a chance to compare this with the original.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution document No.
18 3204, being an excerpt from exhibit No. 3038-G. will
19 receive exhibit No. 3377.

20
21 (Whereupon, the document above
22 referred to was marked prosecution ex-
23 hibit 3377 and received in evidence.)

24 COLONEL FIXEL: Before reading the part
25 of the document I propose to read, starting on page 2
with the words "Explanation of the Temporary Exped-

1 ient System," I want to ask the witness whether the
2 individual SUZUKI whose name appears on the face of
3 the document is the same party as the accused SU-
4 ZUKI in this case.

5 THE WITNESS: It is the same person.

6 COLONEL FIXEL: I propose to read, with per-
7 mission of the Tribunal, the portion of the document
8 commencing on page 2, headed "Explanation of Tem-
9 porary Expedient System."

10 However, the document shows it originated with
11 the Chief of Staff of the Kwantung Army MIYAKE, Mitsu-
12 haru, was received in the War Ministry on December 9,
13 1931, in the Military Affairs Section, and was sealed
14 there, transmitted to the War Ministry on the same date,
15 and directed to SUGIYAMA, General, Vice-Minister of War.

16 (Reading) "Explanation of the Temporary
17 Expedient System."

18 "I. In the present situation, an active guid-
19 ance by a powerful, clear-cut and straightforward
20 autocratic organ is necessary.
21

22 "II. Outwardly if a huge but weak organ is
23 specially established, it will aggravate the stimula-
24 tion both at home and abroad. It will not only be un-
25 wise but there is a fear that it will be destroyed by
 too many opinions by too many people. Furthermore,

1 the secret will leak out: and it will be unsuitable
2 from the standpoint of establishing rights and inter-
3 ests or from the standpoint of the movement to estab-
4 lish a regime through inner guidance.

5 "III. The various Chinese regimes at the
6 present are dependent solely upon the Japanese mili-
7 tary and are already in the midst of various construc-
8 tions to a considerable degree. Therefore, if a new
9 organ is established separately, there is a fear that
10 orders from two sources will overlap and the construc-
11 tion project will be destroyed in the midst of its
12 activities. Particularly, the feeling of confidence
13 is weak toward the various organs which have deep ten-
14 dencies to lean toward political parties and factions,
15 or which become corrupt easily in movements to grab
16 rights and interests, or which wantonly make specula-
17 tions and surmises in international relations. These
18 organs will be unsuitable to the construction project
19 which must be progressed while displaying power to
20 the Chinese.

21
22 "IV. The council system of the various types
23 of organs actually will not be able to bring about the
24 solution to the pending Manchuria-Mongolia affairs.

25 "V. Because of the foregoing, it will be most
logical for the Army to newly establish a governing

1 section in the present organ and for the various or-
2 gans in Manchuria to give it lateral support.

3 "Furthermore, if a new government is estab-
4 lished, its guidance will be carried out by an ad-
5 visory body. And it is believed that it will be advan-
6 tageous for the Army Headquarters and others to merge
7 with the Government General described in a separate
8 book."

9 BY COLONEL FIXEL:

10 Q Was General TADA, Witness, an adviser to the
11 Department of the Military Government of Manchukuo
12 while you were Chief of Staff of the Kwantung Army?

13 A Yes, as you say.

14 Q And was he Chief of the Counseling Section
15 of the Kwantung Army?

16 A No.

17 Q What were his duties while he was on assign-
18 ment to the Kwantung Army?

19 A The word "attached to the Kwantung Army"
20 means that he was on duty with the Kwantung Army and
21 it does not necessarily mean that he had any position
22 in the General Headquarters of the Kwantung Army.

23 Q Was he acting directly under the authority
24 the War Minister then or was he in the staff of the
25 Kwantung Army?

1 A . His status was that of an officer attached
2 to the staff headquarters of the Kwantung Army, and he
3 was under the direct control of the Commander of the
4 Kwantung Army -- he was under the jurisdiction of the
5 Commander of the Kwantung Army.

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1 Q Did you have any connection with the work
2 that he was doing in Manchuria?

3 A No.

4 Q As Chief of Staff of the Kwantung Army didn't
5 you get reports from him?

6 A The procedure involved in submitting his
7 reports was that he submitted them directly to the
8 Commander of the Kwantung Army although I also, as
9 Chief of Staff, was aware of them.

10 Q And did you know that General TADA, Shun,
11 was principally engaged during his period of service
12 in Manchuria in guiding the military government in
13 Manchukuo?

14 A As a counsellor of the Military Government
15 Section he responded to the inquiries of the Minister
16 of Military Government of the Manchukuo regime.

17 Q And he advised in relation to matters involving
18 personnel, finance and munitions, did he not?

19 A The Military Government Section did not occupy
20 itself with such duties. Its main functions were the
21 organization and training of troops.

22 Q Isn't it true that matters involving per-
23 sonnel, finance and munitions were coordinated by
24 General TADA for the Military Government Section?
25

A No, he was not connected with such functions.

1 Q Was General TADA carrying on his functions
2 as counsellor to the Military Government Section alone
3 or did he have subordinates working with him?

4 A General TADA was the chief advisor to the
5 Military Government Section. I have forgotten how
6 many subordinates he had but he had quite a few and
7 he and his group composed the advisory section to
8 the Military Government Section.

9 Q These subordinates were called advisors and
10 instructors, were they not?

11 A They were called advisors.

12 Q And were not these advisors posted at each
13 Manchukuoan detachment, government office and school
14 throughout Manchukuo?

15 A No, that is not so.

16 Q Where were they posted?

17 A All advisors were under General TADA and
18 worked in the Military Government Section of Manchukuo.

19 Q But isn't it true that this section was in
20 reality a great network that performed its functions
21 throughout the country of Manchukuo?

22 A No, that is not so.

23 Q And will you admit or deny that this system
24 of advisors actually placed the Manchukuoan Army under
25 the direct control of the Japanese?

1 A I deny that. I should like to add an
2 explanation to that simple answer.

3 My appointment as Chief of Staff of the
4 Kwantung Army came barely half a year after Manchukuo's
5 establishment as an independent state and the Man-
6 chukuoan National Army was then composed of the
7 remnants of members of the old military cliques.
8 General TADA, a high advisor to the Minister of
9 Military Government, gained the approval of this
10 minister and also the consent of the Kwantung Army
11 Commander to the reduction of this Manchukuoan
12 National Army -- to the limitation of the functions
13 of this Manchukuoan National Army -- to the simple
14 preservation of peace and order. He also proposed
15 that the total number of this Manchukuoan National
16 Army should be around 60,000.

17 THE MONITOR: Instead of "He also proposed,"
18 "It was also discussed that."
19

20 A (Continuing) That is why at the time
21 the Manchukuoan National Army was not in an organized
22 state at all and no schools existed as yet. It was
23 only after I left Manchukuo in 1934 that I heard
24 afterwards that schools had been established. There-
25 fore it was impossible for General TADA and the advisors
under him to engage in any functions other than those

1 which I have described heretofore.

2 Q If General TADA stated that he was engaging
3 in such activities we have been talking about, would
4 you still say that the activities did not take place
5 while you were in the office of Chief of Staff of
6 the Kwantung Army?

7 A The functions which you, Mr. Prosecutor, have
8 described really belonged to the advisors to the
9 general headquarters of the Kwantung Army -- the
10 advisors to the Kwantung Army Commander himself --
11 and therefore whatever Major General TADA may say,
12 he could not and did not engage in such functions.

13 Q But the advisors were from the Japanese Army
14 who were placed with the Manchurian National Army,
15 isn't that true?

16 A No advisors were sent to the Manchurian
17 National Army. These so-called advisors were officers
18 of the Kwantung Army and with Major General TADA as
19 their chief they were assigned to the advisory section
20 of the Kwantung Army.

21 THE MONITOR: Strike out "of the Kwantung
22 Army." He merely said "advisory section."

23 Q You knew, did you not, that this system of
24 advisors was extensively used in the conquest of Jehol?
25

A This advisory section did not play a very

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1 important part in the re-establishment of law and
2 order in Jehol.
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1 Q Isn't it true that the advisory section was
2 used to control the life pulse of the Manchukuoan
3 Army?

4 A No, that is completely contrary to the facts.

5 Q And did you not know that the advisers and
6 instructors of the Manchukuoan Army became the prac-
7 tical rulers of both the local and the central govern-
8 ment of Manchukuo?

9 A The facts themselves show that such things
10 did not happen.

11 COLONEL FIXEL: May the witness be shown
12 IPS document 612?

13 (Whereupon, a document was handed
14 to the witness.)

15 Q And will you examine that document which ap-
16 pears to be an article or a report made by General
17 TADA to the commanding general of the Kwantung Army,
18 dated August 4, 1934, entitled "The Guidance of the
19 military Government of Manchukuo"?

20 MR. BROOKS: If your Honors please, I wish
21 to object to any questions along this line of the
22 guidance of the military government of Manchukuo. The
23 last document referred to was, indeed, several months
24 after the war had broken out; and since it is custom-
25 ary training for a certain amount of military govern-

1 ment in any place where there have been hostilities,
2 I do not see that this is relevant and material es-
3 pecially in the case of KOISO.

4 THE PRESIDENT: The objection is overruled.

5 Q Will you state whether or not the contents
6 of the document you are examining are true.

7 MR. BROOKS: I object to that question, your
8 Honor, as calling for a conclusion of the witness.
9 There is no showing that he has any knowledge about
10 it, and it might be a matter for the Court.

11 THE PRESIDENT: Do you know whether or not
12 the contents are correct?

13 THE WITNESS: This document was presented by
14 General TADA after I had already left my post in
15 Manchukuo, and this is the first time I have seen this
16 document.

17 Q Does not the document show that General TADA
18 reports on conditions which existed from the time of
19 the founding of the empire, and --
20

21 THE PRESIDENT: You interrupted the witness
22 clearly, I think, Colonel. He was perusing the book
23 when you spoke and still is.

24 THE WITNESS (Continuing) May I continue?
25 And, as I stated, this report was submitted by Major
General TADA after my departure from Manchukuo. How-

1 ever, I can clearly state that this is a report submit-
2 ted by Major General TADA to the then commander of
3 the Kwantung Army, General HISHIKARI.

4 COLONEL FIXEL: I offer IPS --

5 THE WITNESS (Continuing) May I continue just
6 a few words more? A few moments ago you asked me
7 about questions of personnel and finance. I took
8 your question to mean -- I took your question to
9 apply to matters of personnel and finance as it per-
10 tained to Manchukuo as a whole, and that is why I
11 made the answer I did. But, on looking through this
12 document, I find that since General TADA was on duty
13 with the -- as an adviser to the Military Government
14 Department it is but natural that he was concerned
15 with matters of personnel, intendance, legal affairs
16 and medicine in so far as they related to his section.
17 You have also talked about the actual grasp of man-
18 chukuo or the practical control thereof. These mat-
19 ters are mentioned in General TADA's report here as
20 plans for the future, but I feel quite sure that these
21 show that he did not have a -- that his view of the
22 state of affairs was mistaken.

24 THE MONITOR: Instead of "practical control,"
25 "control by means of force."

THE PRESIDENT: Well, are you tendering it?

1 COLONEL FIXEL: I offer IPS document 612.

2 THE PRESIDENT: Captain Brooks.

3 MR. BROOKS: I would like to have a copy of
4 it, your Honor. I want to object to the document,
5 however, because, from the statements of the witness
6 and from the document itself, it appears it is on a
7 period after this accused left the post to which it
8 has referred.

9 THE PRESIDENT: It was quite voluntary and
10 without any suggestion from Colonel Fixel that he
11 spoke as to its contents. He passed judgment on it.

12 MR. BROOKS: I understood that he said that
13 they were not true. However, if your Honor please,
14 in this case, since the evidence itself does not re-
15 late too close to this witness, I think that the prose-
16 cution is using this witness in an attempt to bolster
17 its case in the general phase which is a right which
18 the defense has been denied at this time even though
19 its case has not been closed.

20 THE PRESIDENT: The witness has said enough,
21 though, to make it receivable at this stage according
22 to our practice.

23 MR. BROOKS: "The Guidance of the Military
24 Government of Manchukuo" as of August, 1934 cannot,
25 surely, be relevant and material to the case of

1 KOISO who was not even holding a post there at that
2 time. Therefore, it gives the prosecution an unfair
3 advantage if they are allowed to bolster their case on
4 the general phase continuously when the defense at the
5 same time is denied that right.
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1 THE PRESIDENT: Two of my colleagues point out
2 that the document deals with past administration of the
3 Japanese in Manchuria. One says it goes back to the
4 genesis of the state. And then we have the witness'
5 observations quite voluntarily made in the witness box.
6 It is a matter of weight, really, as far as the evidence
7 goes; and as far as you are concerned, for comment
8 later.

9 MR. BROOKS: My observation goes deeper than
10 that, your Honor, if you will let me continue uninter-
11 rupted.

12 THE PRESIDENT: Unless we see the document
13 we can't tell whether the witness is stating the truth
14 or not in the box, and he certainly did adopt some of
15 it in support of his attitude. On that ground alone
16 we must receive it and all that is open then is the
17 weight of it and your comments later.

18 MR. BROOKS: I would like for the Tribunal to
19 pass upon my objections after being fully heard un-
20 interrupted.

21 THE PRESIDENT: You are trying to interrupt
22 me, but you don't realize it. Some of my colleagues
23 bitterly resent your attitude.

24 MR. BROOKS: I can't understand how anyone can
25 bitterly resent my attitude when they haven't fully

1 heard it and understand that it is an insistence upon
2 a man getting a fair trial. I am insisting, if your
3 Honors please --

4 THE PRESIDENT: Here is a note from another
5 colleague: "An objection on procedure must be stated
6 briefly and is not an excuse for a speech." That is
7 what you are making.

8 MR. BROOKS: I think I have been encouraged a
9 little, if your Honor please. I wish to state an objec-
10 tion, but if the Court doesn't care to hear me I will
11 not proceed. I will leave it to a majority of the
12 Court whether I am to be heard on this objection fully.

13 THE PRESIDENT: No objection to this particular
14 evidence can be sustained by any court.

15 MR. BROOKS: If that is the attitude of the
16 Court there is no need of making an objection.

17 THE PRESIDENT: Colonel Fixel.

18 COLONEL FIXEL: May the exhibit receive a number?

19 THE PRESIDENT: It is admitted on the usual
20 terms.

21
22 CLERK OF THE COURT: Prosecution document
23 No. 612 entitled "Direction of the Manchurian Military
24 Administration" will receive exhibit No. 3378 for
25 identification only, and the excerpt therefrom, bear-
ing the same prosecution document number, will receive

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1 exhibit No. 3378A.

2 (Whereupon, prosecution document No. 612
3 was marked prosecution's exhibit No. 3378 for
4 identification, the excerpt therefrom being
5 marked prosecution exhibit No. 3378A and received
6 in evidence.)

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1 THE MONITOR: Colonel Fixel, this is the
2 Language Division. It appears that certain pages as
3 contained in the English copy are not translated --
4 are not given in the Japanese copy. The last para-
5 graph of page 8, entire page 9, and page 10 are not
6 in the Japanese copy.

7 MR. BROOKS: If your Honors please, if it is
8 a translation difficulty, that is something that can
9 be corrected by an errata sheet later. I notice there
10 are quite a few in some of the other documents which
11 I will raise, and when we are checking I think we can
12 take care of them.

13 COLONEL FIXEL: May I read exhibit 3378-A?

14 THE MONITOR: Colonel Fixel, if you are going
15 to read the entire document, that part of the document
16 will have to be done by relay translation instead of
17 simultaneous. Will that be all right?

18 COLONEL FIXEL: Well, I think so. We will
19 have to do the best we can with it. It must have been
20 a defect in the Language Division not to get the trans-
21 lation out completely.

22 THE PRESIDENT: I think we should recess
23 now five minutes earlier to enable this matter to be
24 adjusted. We will recess for fifteen minutes.
25

(Whereupon, at 1040, a recess

1 was taken until 1100, after which the
2 proceedings were resumed as follows:)

3 - - -

4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Yes, Colonel.

7 COLONEL FIXEL: May I make a correction.

8 Before the recess I stated that the Language
9 Division had made an error in the translation of this
10 excerpt from IPS document No. 612. What I meant was
11 that the Language Section of the International Prosecu-
12 tion Section had made the mistake in making an omission,
13 and not the Language Division of this Tribunal.

14 May I proceed to read exhibit 3378-A?

15 THE PRESIDENT: Yes.

16 COLONEL FIXEL: (Reading) "The Guidance of
17 the Military Government of Manchoukuo. (A report on
18 conditions on the occasion of leaving my post and
19 handing over to my successor.)
20

21 "August 1, 1934. By Major General Shun TADA,
22 Advisor to the Military Government of Manchoukuo.

23 "August 1, 1st year of Kangte. To General
24 HISHIKARI, Commander-in-Chief of the Kwantung Army.

25 "Re Report on Conditions.

"On leaving my post, I submit to you my report

1 on the conditions connected with the guidance of the
2 military government of Manchoukuo from the time of the
3 founding of the empire, as you will see in an annexed
4 booklet.

5 "I add further that the annexed booklet is
6 to serve as a document to hand over my duties to my
7 successor.

8 "Shun TADA, Advisor to the Department of the
9 Military Government of Manchoukuo.

10 "The Guidance of the Military Government of
11 Manchoukuo.

12 "Chapter One. The Outline of the Guidance of
13 the Military Government from the Time of the Founding
14 of the Empire.

15 "1. Grasping Control of the Manchoukuan Army.

16 "Article 1. Grasping by Force and the Control
17 Control.

18 "I. The Grip on the Life Pulse of the Man-
19 choukuan Army.

20 "1) At the beginning of the founding of the
21 Empire of Manchoukuo the troops in various places had
22 gradually reverted to the new state forced into sub-
23 mission by the Imperial Army and had been organized
24 into garrisons of various provinces, but they still
25 assumed the aspect of rival warlords and the controlling

1 power of the military government failed to penetrate
2 into them, causing changeable and unsettled conditions.

3 "In order to make them loyal to the new state
4 and put them under the practical control of the Imperial
5 Army either at the time of war or at the time of peace,
6 it was necessary to control them first of all under
7 the government's rule.

8 "2) In that period we established the great
9 policy of gradual organization and drew up 'The Essential:
10 for Organization of the Manchoukuan Army' ('Manshukoku-
11 gun Seibi Yoko'). As the first provisional measure
12 it was necessary to strive for 'grasping control of
13 them by force' as well as 'putting the soldiers' minds
14 at rest,' so we dispatched advisors and military
15 instructors (all of them were renamed advisors after-
16 wards), who were very few in number at that time, to
17 various key points in the whole of Manchoukuo to make
18 them assume the responsibilities of gripping the Man-
19 choukuan Army with the influence of the Imperial Army
20 for a background /i.e. backing/; at the same time, per-
21 ceiving that we must include in our grasp 'money,'
22 'people' and 'munitions' to control the life pulse of
23 the Manchoukuan Army and put them under the government's
24 direct control, we exercised, first of all, general
25 control over the fundamental principles regarding

1 accounting, personnel affairs and munitions, and after
2 that we strove for the gradual centralization of matters
3 relating to the above.

4 "II. The Formation of Guidance Networks of
5 the Manchoukuan Army and its Consolidation.

6 "1) The Basic Formation of Guidance Networks.

7 "Feeling keenly that in order to grasp control
8 of the Manchoukuan Army, it was essential to secure
9 our grasp of the army by 'forming systematic networks'
10 and 'cellularizing their veins and branches,' we held,
11 first of all, meetings of the advisors and military
12 instructors who were scattered in various districts
13 and were hard to control and unify at first, so as to
14 come to a mutual understanding; at the same time we
15 strove to make them the pivot of control of the Manchou-
16 kuan Army and its guidance by impregnating them with
17 guiding spirit; and gradually employing Japanese person-
18 nel and making them the veins and branches of the net-
19 works, we endeavored to establish the basis of a hori-
20 zontal network system which had connections in all
21 directions. After that we demanded gradually increased
22 stationing of officers in actual service only to be
23 refused and were obliged to fill up the positions by
24 adding officers on the reserve list to this system.

25 "2) Expansion and Strengthening of the Networks.

1 "However, we were fortunate enough to have
2 the number of officers in actual service doubled in
3 April 1933, and to a certain extent we succeeded in
4 making the networks which covered the whole of Man-
5 choukuo our desired 'organic system' with the help of
6 the increased officers on the reserve list.

7 "Thereupon, we renamed all the officers in
8 actual service advisors, changed the status of officers
9 on the reserve list to that of call-in-officers and
10 named them military instructors, and established a con-
11 sistent connection even among these officers' subordi-
12 nates. And moreover, we firmly established inner con-
13 nection among Japanese-Manchoukuan officers who held
14 post in the Manchoukuan forces, government offices,
15 or schools which had contact with the above-mentioned
16 network system and were under its control, and thus
17 consolidated the guiding networks of Manchoukuo.

18 "II. Guidance in Military Operations Directly
19 Given by the Department of the Military Government.

20 "1) The Jehol Province Operations and Opera-
21 tions on the Western Boundary by the Manchoukuan Army.

22 "The Jehol Province operations were the greatest
23 operations which had been worked up and directed by
24 the Advisory Section of the Department of the Military
25 Government, a force more than 40,000 strong being used

and eight million yen being spent for them.

1 "Important as the operations were, I won't
2 dwell upon the subject because it now belongs to the
3 past and I find it too troublesome to do so.
4

5 "I will only add that the Jehol Province
6 operations carried out by the Manchoukuan Army were
7 presided over by the advisors of the Department of the
8 Military Government and the advisors of the general
9 headquarters of the former enemy, from their prepara-
10 tions down to the outset and the guidance after the
11 outset, and that the efforts made by those concerned
12 are worthy of our appreciation.

13 "Further, special attention should be accorded
14 to the western boundary operations (the Tolun opera-
15 tions) which were carried out soon after the Jehol Pro-
16 vince operations. As a result of the operations, the
17 garrison of the Eastern Chahar (Lieutenant General Li
18 Shouhsin is commanding it) as /one of/ the pro-
19 Manchoukuan self-defence forces is now stationed in
20 the vicinity of Tolun and ruling over its neighborhood,
21 and the government office of the governor of the
22 Eastern Chahar Special Autonomous Administrative Dis-
23 trict is established; this should not be overlooked
24 in conducting movements towards Chahar. And the fact
25 that Le Shou-hsin is concurrently holding the post

1 and eight million yen being spent for them.

2 "Important as the operations were, I won't
3 dwell upon the subject because it now belongs to the
4 past and I find it too troublesome to do so.

5 "I will only add that the Jehol Province
6 operations carried out by the Manchoukuan Army were
7 presided over by the advisors of the Department of the
8 Military Government and the advisors of the general
9 headquarters of the former enemy, from their prepara-
10 tions down to the outset and the guidance after the
11 outset, and that the efforts made by those concerned
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17 garrison of the Eastern Chahar (Lieutenant General Li
18 Shouhsin is commanding it) as /one of/ the pro-
19 Manchoukuan self-defence forces is now stationed in
20 the vicinity of Tolun and ruling over its neighborhood,
21 and the government office of the governor of the
22 Eastern Chahar Special Autonomous Administrative Dis-
23 trict is established; this should not be overlooked
24 in conducting movements towards Chahar. And the fact
25 that Le Shou-hsin is concurrently holding the post

1 of commander-in-chief of the garrison in the Province
2 of Hsingan Hsishen (Wu Ku-ting is his acting commander-
3 in-chief) and that the Department of the Military
4 Government is expected to defray ¥300,000 annually
5 as the expenses for its maintenance is also worthy of
6 our attention.

7 "I. The Commencement of the Organization of
8 the Department of Military Government.

9 "1) With the founding of the state Ma Chan-
10 shan was designated as Chief of the Department of
11 Military Government, but he soon turned traitor and
12 ran away.

13 "In the middle of April, Wang Ching-hsiu was
14 appointed to the post of vice-chief of the Department
15 of Military Government and was made to deal with the
16 chief's business on behalf of him. He set about organ-
17 izing the Department of Military Government.

18 "2) At the outset, the Kwantung Army charged
19 itself with his guidance and Captain of Cavalry, KOMATSU,
20 member of the Army Staff, and Intendant Captain SUMITANI,
21 attached to the Naval Staff, chiefly concerned them-
22 selves in the business.

23 "II. Organizing Guidance Organs and Setting Up
24 Guidance Network.

25 "1) On April 13, Advisers to Military

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1 Administration, Advisers to Provincial Guards' Head-
2 quarters, and Military Instructors were appointed, and
3 they were placed under my supervision.
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~~"I. To Whom the Prerogative of Supreme~~
1 Command Belongs and Whence it is Put in Action.

2 "The prerogative of supreme command is to
3 be controlled by the Emperor and the form that will
4 justify the name of Sovereign State is to be
5 adopted, but the original source that will put it in
6 action is under the control of the commander-in-
7 chief of the Kwantung Army.

8 "The advisors holding it in their power,
9 the source from where the prerogative of supreme
10 command is put in action is really and practically
11 in the hands of the commander-in-chief of the Kwan-
12 tung Army.

13 "II. The Independence of the Prerogative
14 of Supreme Command and the Particulars of its Real-
15 ization.

16 "1) The Independence of the Prerogative
17 of Supreme Command.

18 "It was not clear at the outset whether the
19 prerogative of supreme command of Manchoukuo was
20 independent of her state affairs or not; but on the
21 occasion of the enforcement of Imperial (Manchukuo)
22 rule, it was made clear that it should be independent.

23 "2) The Reasons of the Independence of the
24 Prerogative of Supreme Command.
25

1 "Considering that the Kwantung Army has
2 been making its elements penetrate deep into the
3 Manchoukuan Army and has been controlling its (i. e.
4 Manchoukuan Army's) tendency through these elements,
5 and has been making them (i. e. elements) grasp the
6 substance of supreme command of the Manchoukuan
7 Army, it may be proper to deal with supreme command
8 of the Manchoukuan Army through the original system
9 which is under the control of the Kwantung Army, not
10 through the Board of General Affairs.

11 "Moreover, even if we look at the problem
12 in a practical way, it would be idle to attempt to
13 carry out matters belonging to the Supreme Command
14 through civilian officials.

15 "As to the possibility of revolt by the
16 Manchurian Army, based on the so-called 'Impossibility
17 of Independence Opinion,' if we come to a situation
18 where it is uncontrollable by the present military
19 advisors' system, we shall not be able to prevent the
20 performance of duties pertaining to the Supreme Com-
21 mand, by civilian officials.
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1 "And there is the opinion that there is a
2 danger because the permanency of the advisers for
3 the Manchurian Army is uncertain; but the withdrawal
4 of advisers is something unimaginable to those who
5 consider the permanent rule of Manchukuo. If we
6 realize the fact that from ancient times armed troops
7 can be the destruction of the supreme power just as
8 it can be its mainstay, we shall not be able to
9 loosen our control of a national army composed of a
10 different race. That the advocates are voluntarily
11 thinking of taking steps convenient for revolts,
12 while recognizing the possibility of revolts by the
13 Manchurian Army, is obviously self-contradicting.

14 "Moreover, there is the opinion that the
15 dispatch of advisers should not be continued when
16 there is no lawful foundation for it. However, from
17 the spirit of the protocol and from the articles of
18 the military agreement, the dispatch of advisers
19 should be interpreted as having lawful foundations.
20 What is still more, customs can always be taken for
21 lawful foundations.
22

23 "Moreover, by its independence we shall
24 give the Manchoukuan Army a nucleus and shall be able
25 greatly to enhance the feeling of a national army.
And as long as the Kwantung Army has the substance of

1 the Supreme Command under its power, there is no
2 danger.

3 "However, in conclusion, what we should
4 be most careful about is that, if we should make
5 a precedent of a nonindependent supreme command in
6 Manchukuo, it will become a source of calamity for
7 our Imperial Army in the future, although it may
8 be all right for the present.

9 "3) The Developments Leading to the
10 Independence of Supreme Command.

11 "Although there were doubts also within
12 our army as to the advisability of the independence,
13 negotiations were made with the authorities con-
14 cerned according to the above-mentioned opinion,
15 and it was made independent as a matter of formality.

16 "Chapter Two

17 "The Organs for Guidance of the Manchoukuan
18 Army."

19 "Article I - An Outline

20 "Though I have already described the organs
21 for guiding the Manchoukuan Army in the first section
22 of chapter one and also in the third section of
23 chapter two, as I cannot ignore this organization,
24 which in explaining the present situation of the
25 military government of the Manchoukuan Army, could

1 be considered as its basis, I want to add some
2 explanations on some items which I have not described
3 in the above.

4 "I. The Branch Organs of the Imperial Army.

5 "The existing advisors are not employed by
6 the Manchoukuan Army nor does their appointment need
7 this army's sanction, nor is an ex post facto approval
8 of their appointment necessary, they are simply dis-
9 patched to the Manchoukuan Army by the Kwantung Army
10 in accordance with a military order; in short, the
11 advisors are organs of the Imperial Army and the
12 systematic networks for controlling the Manchoukuan
13 Army are, in reality, nothing but branch organs of
14 the Imperial Army.

15 "II. The Advisors' Consciousness of their
16 being Members of the Imperial Army.

17 "Though in the Manchoukuan Army, the ad-
18 visors are in service on the standpoint that they
19 are all officers of the Japanese Imperial Army and
20 burn with the patriotic spirit of those who are at
21 the front to accomplish our national policy. It is
22 certain that they will never place the Manchoukuan
23 Army in opposition to the Japanese Imperial Army.

24 "III. The Advisors Hold Real Power in the
25 Manchoukuan Army.

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2 explanations on some items which I have not described
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19 are all officers of the Japanese Imperial Army and
20 burn with the patriotic spirit of those who are at
21 the front to accomplish our national policy. It is
22 certain that they will never place the Manchoukuan
23 Army in opposition to the Japanese Imperial Army.
24

25 "III. The Advisors Hold Real Power in the
Manchoukuan Army.

1 "1) The Manchoukuan leaders who were
2 picked out by the advisors to take part in the De-
3 partment of the Military Government established by
4 the advisors were naturally under the advisors'
5 perfect control; and besides, as they had never been
6 in service in this kind of government office, they
7 could not do anything without the advisors' guidance.
8 Such being the situation, the Department of the
9 Military Government naturally held perfect control
10 of the advisors.

11 "2) In provinces, chiefs of the Military
12 Intelligence Bureaus being generally appointed as
13 advisors, past circumstances naturally caused them
14 to come in power.

15 "3) At the front line, they (i. e., the
16 Manchoukuan leaders) realized that they could obtain
17 facilities in connection with the Imperial Army
18 through the advisors and this caused them to make
19 friends with the advisors; the advisors' footing was
20 raised as they (i. e., the Manchoukuan leaders)
21 thought it wise to rely upon them in matters concern-
22 ing negotiations with the Department of the Military
23 Government; they began to revere and rely upon the
24 advisors after they had known the advisors' ability
25 in matters concerning subjugation; and they also

1 realized that a word from an advisor to the Central
2 Government authorities would concern their position
3 and merit, and this naturally induced them to be
4 ruled by the advisors.

5 "In short, the advisors are now practical
6 rulers of both local and central governments.

7 ". . . In short, what makes the pivot of
8 guidance is practical grasp of the Manchoukuan Army.
9 And for this purpose, it is essential that we should
10 establish control attended with real power with
11 strong and systematic guiding networks and also
12 firmly control soldiers' minds by the spirit of
13 harmony, various measures to be taken and facilities
14 to be established should all be based on the aforesaid.

15 "Now I will dwell upon some concrete prob-
16 lems. I think it necessary to consolidate the rela-
17 tions between the guiding networks and the cells of
18 the Japanese-Man ioukuan officials related to them.
19 And we should pay most attention to the establishment
20 of gendarmerie (Kempei-tai) and to the reform of
21 training stations; we should exert our utmost in the
22 matters that would affect the inner workings of the
23 human nature of the Manchoukuan people such as per-
24 sonnel affairs, allowances, rewards, and relief; as
25 for various equipment, we should be satisfied by only

1 fulfilling the minimum necessity and aim at the
2 immediate maintenance of public peace and order;
3 but as for the equipment and facilities which will
4 be used by the Imperial Army in wartime, they should
5 be completely equipped from a different point of
6 view."

7 Q Now, Witness, was not the real reason that
8 you were relieved from the important position of
9 Vice-War Minister and made Chief of Staff of the
10 Kwantung Army so that you could carry out the con-
11 quest of Jehol?

12 A My transference from the post of Vice-Minister
13 of War to that of Chief of Staff of the Kwantung Army
14 was carried out on the orders of my superiors. There-
15 fore, I know nothing about the reasons for my trans-
16 ference.

17 Q Were not the military operations of the
18 Kwantung Army in Jehol accelerated shortly after
19 your arrival as Chief of Staff?
20

21 A As is written in my affidavit, after the
22 signing of the Japan-Manchukuo Protocol on the 15th
23 of September, the Japanese Army in Manchuria, that
24 is to say, the Kwantung Army was given the responsi-
25 bility of the defense and maintenance of peace and
order in Manchuria -- joint defense and the maintenance

1 of peace and order. Therefore, the re-establishment
2 of law and order in Jehol was also necessary, but a
3 more pressing problem was the re-establishment of
4 law and order in the area east of the Taliao River,
5 and for this purpose, in order to effect this main
6 objective, we tried to re-establish peace and order
7 in Jehol by peaceful means.

8 Q Were you the executive of the Special
9 Service Department as well as the Chief of Staff of
10 the Kwantung Army?

11 A Yes, as you say.

12 Q Was General DOHIMARA connected with the
13 Special Service Department during the time you were
14 Chief of Staff?

15 A He had nothing to do with that organ, that
16 department.

17 Q Was it the Special Service Department or
18 the Special Service Organ that had charge of opium
19 in Manchukuo?
20

21 A The Manchukuo Government had complete con-
22 trol of matters pertaining to opium.

23 Q Didn't the Kwantung Army have something to
24 do with that control also? I am speaking of the time
25 while you were Chief of Staff and also executive of
the Special Service Department.

1 A The Kwantung Army had nothing to do with
2 the opium problem.

3 COLONEL FIXEL: May the witness be shown
4 IPS document 1302, which is offered for identifica-
5 tion.

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1 Q Did you, as Chief of Staff in the
2 Kwantung Army in January 1933, receive three
3 million yen from secret service funds?

4 A In January 1932 I was not yet on duty
5 with the Kwantung Army.

6 Q I am speaking of January 1933.

7 A I do not recall.

8 Q While you were Chief of Staff of the
9 Kwantung Army did you recommend to the War
10 Ministry a customs and tariff policy for Manchuko?

11 A I recall having received a document from
12 the Chief of Staff of the Kwantung Army while I
13 was Vice Minister of War. I myself do not recall
14 ever having sent out any such document.

15 Q Is it not a fact that after you had become
16 Chief of Staff of the Kwantung Army you then made
17 recommendations to effectuate a customs policy
18 which would be very favorable to Japan?

19 A I do not recall.

20 Q And isn't it true that you then made a
21 recommendation that no other country except Japan
22 should be able to participate unconditionally in
23 Japanese-Manchukuoan conventional tariffs?
24

25 A I have no recollection of having done
such a thing.

1 THE MONITOR: We have to modify the
2 interpretation of the last question.

3 (Whereupon, the Monitor spoke
4 in Japanese.)

5 THE PRESIDENT: Does that modification
6 affect your answer, Witness?

7 THE WITNESS: No, I have no recollection.

8 COLONEL FIXEL: The prosecution offers IPS
9 document 1302 for identification.

10 CLERK OF THE COURT: Prosecution document
11 No. 1302 will receive exhibit No. 3379 for identifi-
12 cation only.

13 (Whereupon, the document above
14 referred to was marked prosecution exhibit
15 No. 3379 for identification.)

16 COLONEL FIXEL: May the witness be shown
17 exhibit 3379.

18 (Whereupon, a document was handed
19 to the witness.)

20 Q And, will he examine the marked portion
21 thereof which is a letter from himself, purportedly,
22 to Vice War Minister YANAGAWA, dated December 29,
23 1932, stating recommendations regarding Manchukuoan
24 tariffs and customs? Does that document bear your
25 signature?

1 A My official seal is set on that document.

2 COLONEL FIXEL: The prosecution offers
3 exhibit 3379 -- or the excerpt from 3379 in evidence.

4 THE PRESIDENT: Captain Brooks.

5 MR. BROOKS: I shall reserve my objec-
6 tions until later, your Honor.

7 THE PRESIDENT: Admitted on the usual
8 terms.

9 CLERK OF THE COURT: Prosecution document
10 No. 1302 will receive exhibit No. 3379-A.

11 (Whereupon, the document above
12 referred to was marked prosecution exhibit
13 No. 3379-A and received in evidence.)

14 COLONEL FIXEL: The prosecution desires
15 to read that part of the document which is a letter
16 of transmittal and the document itself:

17 "Date: December 29, 1932.

18 "To Vice-War Minister, YANAGAWA, Heisuke.

19 "From Chief of Staff of Kwantung Army,
20 KOISO, Kuniaki.

21 "I hereby notify you regarding a definite
22 plan as per separate text, concerning matters of
23 Manchurian economic control that has been obtained
24 as the result of research in the Army.

25 "If you have any comments, please advise

us immediately."

1 The separate text: The Outline re the
2 General Policy for Manchukuo customs duty:

3 "Draft of Outline of General Measures
4 regarding Customs Duties in Manchukuo, 12 December
5 1932, The Headquarters of the Kwantung Army.
6

7 "1. To decide on a customs policy so as
8 to make Japan and Manchukuo one economic unit shall
9 be the final aim, but for the time being, the follow-
10 ing policy shall be adopted.

11 "2. The customs of Manchukuo shall be
12 based on the statutory tariff in principle, but
13 towards Japan the tariff on certain specified
14 articles shall be decided by an agreement. Manchukuo
15 shall be persuaded to keep away as much as possible
16 from making any tariff agreement with any Powers
17 other than Japan. She shall not unconditionally
18 allow other powers to share in the tariff agreed
19 between her and Japan.
20

21 "3. The statutory tariff of Manchukuo shall
22 be decided, for the time being, through the reason-
23 able revision of the present tariff. Later the
24 general tariff shall be entirely altered.

25 "4. In revising the present tariff, certain
articles shall be specified as free goods or those

1 the duties on which shall be reduced, according
2 to the principle of the control over the Japanese-
3 Manchurian economic relations. On the other hand,
4 to make up for the subsequent decrease of revenue,
5 duties on such articles that will not hinder the
6 Japanese-Manchurian trade shall be increased.

7 "5. In the revision of the present tariff,
8 a legitimate consideration shall be taken to prevent
9 the third Powers, especially China and Russia,
10 from making an economic advance towards Manchukuo
11 to the disadvantage of the economic relations
12 between Japan and Manchukuo.

13 "6. A system shall be considered whereby
14 discrimination may be made between the exports and
15 imports of countries friendly to Manchukuo and
16 those unfriendly to it.

17 "7. Consideration shall be taken to devise
18 a system to reduce the customs duties at the border
19 of Manchuria and Korea.

20 "8. Special treatment shall be given to
21 the duties of the special articles necessary for
22 the execution of the common defense of Japan and
23 Manchukuo.
24

25 "9. The rights already acquired in accord-
ance with the treaties or agreements shall be

1 independent from the statutory and the stipulated
2 tariffs.

3 "10. Regarding the revision and abolition
4 of the Manchurian Customs Law and the Tariff Law,
5 close connection between the Japanese and the
6 Manchurian authorities shall be maintained.

7 "11. The customs system in Kwantung
8 Province shall remain in general as it is now."

9 Q Did you, on 24 January 1934, while Chief
10 of Staff of the Kwantung Army, make any recommen-
11 dations to the Vice Army War Minister as to any
12 changes in the proposed Manchukuoan Constitution
13 which was then under consideration?

14 A It is not in my recollection.

15 Q Do you recall recommending that power
16 should be divided between a premier and several
17 department heads so that control by the Kwantung
18 Army could be effectually carried out?

19 A I don't know of the reasons but I recall
20 having expressed an opinion to the effect that the
21 position of the prime minister in Manchukuo should
22 be stronger than that of the prime minister in
23 Japan. In Japan the prime minister is one of the
24 ministers of state and is equal with the other
25 ministers of state. I felt that in Manchukuo the

1 premier should be given a stronger position and
2 that he should be in a position to control and
3 lead his cabinet.

4 COLONEL FIXEL: The prosecution offers
5 IPS document 624 for identification.

6 CLERK OF THE COURT: Prosecution document
7 No. 624, entitled "Army Manchurian Secret File
8 for 1934", will receive exhibit No. 3380 for
9 identification only.

10 (Whereupon, the document above
11 referred to was marked prosecution exhibit
12 No. 3380 for identification.)
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1 Q Will the witness examine the excerpt from
2 exhibit 3380, which appears to be a letter, dated
3 the 24th of January, 1934, containing certain
4 recommendations made by the Chief of Staff of the
5 Kwantung Army to the Vice-War Minister.

6 Will you state whether that is a document
7 that was prepared and dispatched by you or at your
8 direction?

9 (Whereupon, a document was handed
10 to the witness.)

11 A My memory is not quite clear on this point.
12 I do think, however, that I must have sent a telegram
13 of this nature.

14 COLONEL FIXEL: I offer the excerpt referred
15 to in evidence.

16 THE PRESIDENT: Captain Brooks.

17 MR. BROOKS: I desire to object at a later
18 period, your Honor.

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: The excerpt from exhibit
21 3380 will receive exhibit No. 3380-A.

22 (Whereupon, the document above re-
23 ferred to was marked prosecution exhibit No.
24 3380-A and received in evidence.)

25 COLONEL FIXEL: With the permission of the

Tribunal, prosecution desires to read only paragraph
1 III of the excerpt and the last paragraph of paragraph
2 V:

3 "24 January 1934

4 "Telegram from the Chief of Staff of the
5 Kwantung Army /KOISO appears in pencil/ to the Vice
6 War Minister.

7 "Despatched: 00:20 P.M. January 24

8 "Received: 01:33 P.M.

9 "TOP SECRET Urgent

10 "III. As to the responsibility for
11 assistance of the Chiefs of Departments, it is appar-
12 ently helpful, in intensifying the principle of
13 making the General-Affairs Board the axis, to have
14 only the Premier assist. However, viewed from the
15 practical application and considering transitions in
16 the future, the selection of the Premier will not
17 always cater to the opinion of the army commander,
18 and a stubborn man may be sometimes selected for
19 that post. Then there will be a danger of delay
20 and standstill of all sorts of political affairs
21 owing to the attitude of the Premier alone. In such
22 cases, if the Chief of each Department is responsible
23 for assistance in matters in his charge, the army
24 commander will be able to carry through his opinion
25

1 by controlling one man or the other. Therefore,
2 it is appropriate to divide part of the responsibility
3 for assistance among the Chiefs of Departments.
4 That is to be prescribed clearly in the Organization
5 Law. /marginal note: 'Agreeable'/"

6 And the last paragraph, paragraph V reads:

7 "I beg you to give your consideration so
8 that most of the opinions mentioned in the above
9 clauses may meet with your approval, and to reply
10 by wire by the afternoon of the 25th."

11 BY COLONEL FIXEL (Continued):

12 Q Did you secure approval for your suggestions,
13 these recommendations that were made in the message
14 that has just been read to you?

15 A On reading through -- glancing through this
16 telegram and after hearing your reading of paragraph
17 III, I feel that what is stated here in paragraph III
18 is somewhat different from my thought as expressed
19 to you in my previous answer. And I feel that there
20 may have been some discussion therefore on this point
21 within the Kwantung Army Headquarters, and there may
22 have been some disagreement, but my recollection is
23 not too clear about it. And I should like to state,
24 also, that if you will look through this telegram, you
25 will see clearly that this telegram has been sent

1 from the Kwantung Army in reply to an inquiry addressed
2 to that Army from Central Army Headquarters.

3 Q The question I asked you was whether your
4 suggestions were complied with by the Central Army
5 Authorities.

6 A I don't believe that the orders as finally
7 given by the Central Authorities embodied completely
8 the suggestions contained in this telegram.

9 Q Particularly with reference to your
10 suggestion that there be divided control between
11 the Premier and the other department heads in the
12 Government of Manchukuo. Was that suggestion complied
13 with?

14 A This is a point that was not accepted by
15 Central Army Authorities. That is my recollection.

16 COLONEL FIXEL: Prosecution offers IPS
17 document 989 for identification.

18 CLERK OF THE COURT: The Great Secret
19 Manchurian Diary for the year 1933 will receive
20 exhibit No. 3381 for identification only.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution exhibit No.
23 3381 for identification.)
24

25 COLONEL FLAEL: May the witness be shown
an excerpt from exhibit 3381, which is dated January

1 from the Kwantung Army in reply to an inquiry addressed
2 to that Army from Central Army Headquarters.

3 Q The question I asked you was whether your
4 suggestions were complied with by the Central Army
5 Authorities.

6 A I don't believe that the orders as finally
7 given by the Central Authorities embodied completely
8 the suggestions contained in this telegram.

9 Q Particularly with reference to your
10 suggestion that there be divided control between
11 the Premier and the other department heads in the
12 Government of Manchukuo. Was that suggestion complied
13 with?

14 A This is a point that was not accepted by
15 Central Army Authorities. That is my recollection.

16 COLONEL FIXEL: Prosecution offers IPS
17 document 989 for identification.

18 CLERK OF THE COURT: The Great Secret
19 Manchurian Diary for the year 1933 will receive
20 exhibit No. 3381 for identification only.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution exhibit No.
23 3381 for identification.)
24

25 COLONEL FLAEL: May the witness be shown
an excerpt from exhibit 3381, which is dated January

1 25, 1933, and shows the allotment of ¥3,000,000 by
2 the War Ministry to the Chief of Staff of the
3 Kwantung Army.

4 (Whereupon, a document was handed
5 to the witness.)

6 BY COLONEL FIXEL (Continued):

7 Q Does this document refresh your recollection
8 to the extent that you can now say that you did
9 receive ¥3,000,000 as of the date indicated?

10 A As I stated before, I have no clear
11 recollection on this point. I should like to call
12 your attention to the fact that I have already stated
13 in my affidavit concerning the method of disposal
14 by the Kwantung Army of its secret funds.

15 COLONEL FIXEL: The excerpt from exhibit
16 3381 is offered in evidence.

17 THE PRESIDENT: It is a bit early, isn't it?

18 MR. BROOKS: I didn't catch your Honor's
19 statement.

20
21 I wish to object to the introduction of this
22 document because it has not been recognized by the
23 witness, apparently, and I think that the prosecution
24 at the time that they offered evidence as to the
25 other funds, had this material in hand and it should
have been offered then so that I could have called

1 25, 1933, and shows the allotment of ¥3,000,000 by
2 the War Ministry to the Chief of Staff of the
3 Kwantung Army.

4 (Whereupon, a document was handed
5 to the witness.)

6 BY COLONEL FIXEL (Continued):

7 Q Does this document refresh your recollection
8 to the extent that you can now say that you did
9 receive ¥3,000,000 as of the date indicated?

10 A As I stated before, I have no clear
11 recollection on this point. I should like to call
12 your attention to the fact that I have already stated
13 in my affidavit concerning the method of disposal
14 by the Kwantung Army of its secret funds.

15 COLONEL FIXEL: The excerpt from exhibit
16 3381 is offered in evidence.

17 THE PRESIDENT: It is a bit early, isn't it?

18 MR. BROOKS: I didn't catch your Honor's
19 statement.

20 I wish to object to the introduction of this
21 document because it has not been recognized by the
22 witness, apparently, and I think that the prosecution
23 at the time that they offered evidence as to the
24 other funds, had this material in hand and it should
25 have been offered then so that I could have called

1 in the accountants and had affidavits prepared so
2 they know what is coming in advance. And I think
3 that the evidence already in is sufficient of the
4 other matter, without going into explanations on
5 additional points, if they were used.

6 Such a reopening of the prosecution's case
7 at this stage in the proceedings takes the defense
8 by way of an unfair advantage since their case has
9 been fully revealed in writing. And I don't see
10 how I can close the defense case, at the end of the
11 presentation of the evidence I have now, if the
12 prosecution didn't mean that they would close their
13 case when they so stated at the end of presenting
14 their evidence.

15 THE PRESIDENT: That point has been taken
16 before and decided. Why repeat it at the expense of
17 so much time?

18 We will hear you after lunch, Colonel. We
19 will adjourn until half-past one.

20 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess,
4 at 1330.

5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

7 THE PRESIDENT: Colonel Fixel.

8
9 K U N I A K I K O I S O, an accused, resumed
10 the stand and testified through Japanese inter-
11 preters as follows:

12 COLONEL FIXEL: In answer to defense objec-
13 tions to the admission of an excerpt from IPS docu-
14 ment 989, the prosecution takes the position that
15 it is permissible on cross-examination to offer docu-
16 ments not previously in evidence.

17 THE PRESIDENT: That has already been decided
18 in your favor.

19 COLONEL FIXEL: I offer the document in evidence.

20 THE PRESIDENT: The difficulty here was that
21 this witness, as far as I recollect, did not say whether
22 they were Kwantung Army documents, to his knowledge.

23 COLONEL FIXEL: May I ask the witness one
24 question?

25 BY COLONEL FIXEL (Continued):

Q Is this document, Witness, correct in accord-

1 ance with its purport?

2 MR. BROOKS: I object to that, your Honor.
3 The document should speak for itself. If he knows
4 about it, that is another thing.

5 THE PRESIDENT: Is that a Kwantung Army docu-
6 ment of your time?

7 THE WITNESS: This is not a Kwantung Army
8 document but a War Ministry document.

9 THE PRESIDENT: You recognize it as such?

10 THE WITNESS: I believe it is correct.

11 THE PRESIDENT: It was received by the Kwan-
12 tung Army from the Vice-Minister of War, was it?

13 THE WITNESS: Yes.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution document
16 No. 989, being an excerpt from exhibit No. 3381 for
17 identification only, will receive exhibit No. 3381-A.

18 (Whereupon, the document above re-
19 ferred to, being an excerpt from exhibit No.
20 3381 for identification, was marked prosecu-
21 tion exhibit 3381-A and received in evidence.)

22 COLONEL FIXBL: The prosecution desires to
23 read only the two items on page 2, Draft of Notifica-
24 tion and Draft of Code Telegram, in addition to the
25 date, which appears to be January 25, 1933, headed

1 "War Ministry. Subject Matter: Granting of Manchurian
2 Incident Expenditure Secret Service Funds."

3 And then from page 2:

4 "Draft of Notification to the Chief of the
5 Finance Section of the Intendance Bureau. (Man -
6 Secret).

7 "Disburse three million yen as Manchurian
8 Incident Expenditure Secret Service Funds and deliver
9 same to Kuniaki KOISO, the Chief of Staff of the Kwan-
10 tung Army.

11 "Army Man-Secret No. 33. January 25, 1933.
12 /seal of/ KASHIMA.

13 "Draft of Code Telegram from the Vice-Minister
14 to the Chief of Staff of the KWANTUNG Army. 'Army MAN'

15 "Three million yen is being granted for your
16 Army's needs as the MANCHURIAN Incident Expenditure
17 Secret Service Funds.

18 "Army MAN No. 85 - January 25, 1933 /seal of/
19 SATO."

20
21 Q Now, Witness, was the Harbin Special Service
22 Agency under you when you were the Kwantung Army Chief
23 of Staff and concurrently Special Service Chief of
24 the Kwantung Army?

25 A It was under the command of the commander of
the Kwantung Army.

1 Q Can you name the persons known to you who
2 worked at that time with the Japanese Special Service
3 Agency in Harbin?

4 A They often changed. The one I remember best
5 is the Chief KOMATSUBARA.

6 Q Was the Harbin Special Service Agency engaged
7 in the collection of information concerning the Soviet
8 Union?

9 A During my period in office the Special Ser-
10 vice organs were mainly concerned with the maintenance
11 of peace and order within the country, and therefore
12 the Harbin Special Service organ was also concerned
13 with maintaining peace and order.

14 Q Was the Harbin Special Service Agency engaged
15 in the working out of plans of political measures for
16 the preparation of war against the U.S.S.R.?

17 A The Special Service organ had no such duty --
18 was not assigned such duties.

19 Q Did it have any duties to work out measures
20 intended to be carried on outside of Manchukuo --
21 for instance, on the Soviet territory, -- prior to the
22 beginning of hostilities and during the war between
23 Japan and the Soviet Union?

24 A As I have just told you, the Special Service
25

organs had no duties to draft plans. Its main functions
1 were the assembling of information at the time.

2 Q Do you know that in January, 1934, while you
3 were Chief of the Kwantung Army, the Japanese Special
4 Service agency in Harbin drew up a document entitled
5 "Outline of Political Measures for the Preparation of
6 a War Against the Soviet Union" that was stamped "Mili-
7 tary Secret"?

8 A May I ask you in what month this so-called
9 plan was said to be drawn up?

10 Q In January, 1934.

11 A I don't remember.

12 Q Is it not true that after military action in
13 the North China provinces had been completed, you were
14 relieved from further service in Manchukuo?

15 A By military operations in China are meant the
16 operations which were carried on as an extension of the
17 Jehol pacification campaign and with those operations
18 which were carried on before the conclusion of the
19 Tangku Truce. I was transferred one year after the
20 conclusion of that agreement.

21 THE MONITOR: "Military operation in China"
22 should read "military operation in North China."
23

24 Q You state in your affidavit that after you
25 were relieved of the position of Chief of Staff of the

1 Kwantung Army, shortly thereafter you became command-
2 ing general of the Korean Army. That is correct, is
3 it not?

4 A Yes, that is correct.

5 Q And was there a sector of land which con-
6 stituted a frontier between Korea and the Soviet Union
7 at that time?

8 A Yes.

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1 Q And was the line that divided the Kwantung
2 and the Korean armies in the neighborhood of the Lake
3 Khassan area and the vicinity of this area?

4 A Yes.

5 Q Was the 19th infantry division one of the
6 units under your command?

7 A Yes.

8 Q Did you also have the 20th infantry division
9 under your command at that time?

10 A It was not the infantry division; it was simply
11 called the 20th division.

12 Q What was the total numerical strength of the
13 19th infantry division and the 20th division together,
14 with the rear supply units attached to each?

15 A You mentioned the 19th infantry division. The
16 correct appellation of this division also is 19th
17 division.

18 The 19th and 20th divisions had no supply units.
19

20 Q What was the total numerical strength of the
21 division, exclusive of any supply units which you say
22 were not attached to these divisions?

23 A I cannot recall the exact figures, but I think
24 the total strength aggregated somewhere around 20,000.

25 Q Were there other units, such as coastal guard
units, special and rear units, under your command?

1 A We had no rear units, but there was a heavy
2 artillery unit which is known as a fortress unit.

3 Q What was the total numerical strength of the
4 Korean Army at the time you were in command of it?

5 A I cannot recall the exact figures, but as I
6 just told you, I think it was somewhere around 20,000.

7 Q Do you know what elements of the Korean Army
8 were stationed at the sector on the border with the
9 USSR, neighboring on the Korean Army?

10 A A unit belonging to the 19th division was
11 stationed near the boundary line.

12 Q What was the size of that unit, numerically?

13 A When I first arrived to take up my post as
14 Commander of the Korean Army, there were various
15 companies and platoons stationed along the banks of the
16 Tumen River. Their total strength was equivalent to
17 about two battalions, I think. Later, a reorganization
18 was carried out and units stationed in Chinguangtao in
19 Manchukuo also came under the command of the Korean
20 Army, as that area was also assigned to the Korean Army
21 as an area to guard, and these units also numbered about
22 two battalions in strength.

23 Q Approximately what date did these additional
24 units arrive in the Lake Khassan region?
25

THE INTERPRETER: Previous to this the witness

1 started to say, "As you know, there is a place in
2 Chinhuangtao called Doronshi."

3 A I believe it was around the 13th or 14th of
4 July that a small force of the 19th division was sent
5 to strengthen the garrison at Heiko on the opposite
6 bank of Lake Khassan.

7 Q And did you know that these additional troops
8 were moving into the Lake Khassan region at that time?

9 A Until my resignation as Commander of the
10 Korean Army, no such thing happened. Until I left my
11 post as Commander of the Korean Army, no such thing
12 happened.

13 Q Do you mean that the additional troops did not
14 move into this region until you had left your post as
15 Commander of the Korean Army?

16 A As I stated before, the area along the border-
17 line south, up to the border mark "T," fell within the
18 garrison area of the Kwantung Army, and therefore,
19 even before the outbreak of this incident, scouts had
20 been entering this area frequently.

21 Q The defense witness TANAKA, Ryukichi, here in
22 the courtroom, in your presence, gave testimony to the
23 effect that the orders concerning the concentration of
24 field units of the 19th division in the vicinity of
25 Lake Khassan were given on July 11, 1938.

1 MR. BROOKS: I wish to call the Court's atten-
2 tion to the record on that statement, that it was
3 corrected at a later period. I think the prosecutor
4 should know that, too.

5 THE PRESIDENT: Do you know that, Colonel?

6 COLONEL FIXEL: No, I do not. Counsel does not
7 say whether the correction related to the date of the
8 concentration or whether he changed the record to show
9 that the order for concentration was not issued by this
10 witness.

11 MR. BROOKS: It was as to both, your Honor.
12 We can refer to the record, of course, your Honor. There
13 is no harm in asking the question, but I wanted to be
14 sure that the correction was noted by the Court and that
15 the statement was not a positive statement, as the record
16 will bear me out and later evidence will show.

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1 COLONEL FIXEL: May I continue asking the
2 question then?

3 Q (Continuing) And that on July 12 these units
4 had already arrived at the border. Thus, if one is
5 going to believe you, you, during four days at least,
6 were an impassive witness of the concentration of
7 troops which could have been justified only by the
8 wish on the part of the Japanese to bring about an
9 armed clash. Do you so claim?

10 MR. BROOKS: If the Court please, I object
11 to that question. It has no basis in fact and of
12 prosecution's own witnesses this one,
13 whose error has been stated here, is the only one who
14 has made such a claim as the Court can recall from
15 recent testimony of other witnesses, the Russians,
16 to that effect.

17 THE PRESIDENT: Why can't the prosecution put
18 its own evidence to him? It is common enough. It is
19 fair to him, too, to get his explanation if he has one;
20 but it is a rather lengthy question. Still the witness
21 may comprehend it. The objection is overruled.

22 A I shall reply. What you, Mr. Prosecutor,
23 have just said is utterly contrary to the facts. On
24 the 6th of July three Soviet cavalrymen appeared on the
25 crest of Changkufeng. On July 11 several more Soviet

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1 troops appeared on the top of Changkufeng and
2 reports coming in from the front line indicated
3 that they were building fortifications -- they were
4 engaged in construction work. No reports reached
5 us from the front line on the following day, July 12.
6 On July 13 the number of Soviet troops on the
7 summit of Changkufeng had reached forty and reports
8 coming in indicated that the construction work was
9 continuing. I instructed the commander of the 19th
10 division, which was the division guarding that spot,
11 to take all precautions but that was all I did.
12 However, on the 14th of July a request came to me
13 from the commander of the 19th division that, since
14 he would be placed in a very difficult position in
15 his duty of guarding Korea if the Soviet troops
16 entered Manchukuoan territory, he wished to be per-
17 mitted to concentrate his troops along the banks of
18 the Tumen River. At the time the China Incident
19 was in progress and Korea was the only rear line of
20 communications, the outbreak of an incident on the
21 Soviet-Manchukuoan or on the Japanese-Soviet border
22 would constitute grave threat. Since I was in such
23 a position that I would have to be very anxious as to
24 what would be the effect of the concentration of the
25 main force of the 19th division along those river

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2 reports coming in from the front line indicated
3 that they were building fortifications -- they were
4 engaged in construction work. No reports reached
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7 summit of Changkufeng had reached forty and reports
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20 communications, the outbreak of an incident on the
21 Soviet-Manchukuoan or on the Japanese-Soviet border
22 would constitute grave threat. Since I was in such
23 a position that I would have to be very anxious as to
24 what would be the effect of the concentration of the
25 main force of the 19th division along those river

1 banks, I sent an inquiry to the central army
2 authorities in Tokyo. The order from the central
3 army authorities replying to this inquiry which I
4 had sent came by telegram to Seoul on July 16, which
5 was the day after I had been transferred from my
6 post as Commander of the Korean Army. These instruc-
7 tions were naturally handed to my successor and
8 therefore I do not know what further orders were
9 given and what further action was taken.

10 Q Did you issue the order to the 19th division
11 canceling the latter's orders concerning the concen-
12 tration of troops in the vicinity of Lake Khassan?

13 A I never sent out such an order and so,
14 naturally, there was no such order to cancel.

15 Q You have testified concerning a number of
16 dates in the course of your testimony on this matter.
17 Do you have a memorandum of such dates and events
18 in your possession or were you testifying from memory?

19 A I was testifying from memory.

20 Q While you were a cabinet member as Overseas
21 Minister in the HIRANUMA Cabinet, were you familiar
22 with HIRANUMA's policies?
23

24 A I don't clearly recall at this date his
25 policies.

Q Did you not know that HIRANUMA as Prime

1 Minister had determined to strengthen the Anti-
2 Comintern Pact to secure closer cooperation between
3 Japan, Germany and Italy?

4 A I did hear vaguely that the problem of
5 relations between Japan, Germany and Italy was being
6 discussed in the Five Ministers' Conference -- and
7 studied.

8 Q While you were a member of the cabinet
9 didn't you learn of what was known as the HIRANUMA
10 declaration made by HIRANUMA on or about the 4th of
11 May, 1939?

12 A At the time I did not know of it.

13 Q And do you mean to say that you did not
14 know that HIRANUMA had stated that Japan was firmly
15 and steadfastly resolved to stand at the side of
16 Germany and Italy?

17 A I suppose the matter was being studied in
18 the Five Ministers' Conference but we cabinet members
19 were not told of that even in the cabinet meetings.
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1 Q And you did not know, is it your claim now,
2 that HIRANUMA praised Hitler's lofty wisdom, his iron
3 will and sent a message to Hitler that he greatly ad-
4 mired the noble task of reconstruction in which Hit-
5 ler was engaged?

6 A As I told you just a while ago, I did not know
7 of it at the time. Several days after that I heard of
8 this, not from Baron HIRANUMA or from my cabinet col-
9 leagues but from HARADA, Kumao.

10 Q Do you want this tribunal to believe that
11 HIRANUMA kept such an important matter a secret from
12 his cabinet?

13 A Well, I am telling you the honest truth be-
14 cause we really did not hear about it.

15 Q Were you acquainted with Baron HARADA in
16 1939?

17 A I knew him.

18 Q And isn't it true that you had a conversation
19 with Baron HARADA on or about the 24th of April, 1939
20 in the course of which you complained to him about
21 lack of unity in the army and that such lack of unity
22 was a hindrance to the successful conclusion of the
23 Tri-Partite Pact?
24

25 A No, I never told him that.

Q Do you want to deny that you had a conversa-

1 tion with Baron HARADA at a later time in the same
2 month, in May, 1939, at which you had a conversation
3 concerning the Tri-Partite Alliance and you expressed
4 the opinion that time that, in order to conclude the
5 China war, such an alliance was necessary because it
6 would alleviate the feelings of the men at the front?

7 A The contents of that conversation are en-
8 tirely false.

9 Q What motive -- strike that.

10 If such views of yours on the Tri-Partite
11 Alliance were recorded by HARADA in the SAIONJI Diary,
12 what motive can you think of HARADA might have had
13 in making such an entry or such entries, if they
14 were not true?

15 MR. BROOKS: I object to that question, your
16 Honor, as being immaterial and irrelevant as to any
17 motives. The Court well knows that from other wit-
18 nesses in this court they have heard the basis for a
19 lot of these statements both in rumor and in hearsay.
20 Furthermore, there is no evidence before the Court that
21 HARADA ever made such a statement or upon what it was
22 based.
23

24 THE PRESIDENT: Again you bring up matters
25 already decided against you, Captain Brooks. It is
fair to this witness to let him point out, if he can,

1 why such things should have been written against him
2 through malice or something of the sort.

3 MR. BROOKS: Your Honor's statement just now
4 made assumes that such things were written. And, if
5 they had been written, why did the prosecution wait
6 until now to bring them when they have had them all
7 along, and they should have been presented in the
8 first place to give us a fair chance to build up a
9 case against them and investigate them thoroughly,
10 not wait until the last minute for a surprise?

11 THE PRESIDENT: The cross-examination is
12 quite proper according to the rulings of this Tri-
13 bunal and according to the rulings in my own court
14 in Australia.

15 COLONEL FIXEL: May the reporter read the
16 question again to the witness?

17 (Whereupon, the Japanese court re-
18 porter read.)

19 THE MONITOR: The Japanese court reporter
20 read the wrong question. Will the English court
21 reporter please read the last question?

22 (Whereupon, the last question was
23 read by the official court reporter as
24 follows:)

25 "Q If such views of yours on the Tri-Partite

1 Alliance were recorded by HARADA in the SAIONJI Diary,
2 what motive can you think of HARADA might have had
3 in making such an entry or such entries, if they were
4 not true?"

5 A My counsel gave me portions of the HARADA
6 Diary in so far as they related to me, and I have had
7 an opportunity to read those portions. I believe that
8 it was in his entry of April 18 or April 19, I forgot
9 which, but there is an entry to the effect that KOISO
10 was against the Tri-Partite Pact.

11 Q I am not asking you --

12 A May I continue just a little bit more?

13 COLONEL FIXEL: I think the witness should
14 answer the question.

15 THE PRESIDENT: You must answer the question.
16 Answer the question.

17 A (Continuing) May I have the question re-
18 peated?

19 THE MONITOR: Japanese court reporter.

20 COLONEL FIXEL: I think I can ask the ques-
21 tion substantially as it was originally.

22 THE PRESIDENT: No, let the Japanese court
23 reporter do it.

24 (whereupon, the Japanese court
25 reporter read.)

1 A (Continuing) I have discovered that several
2 times he has twisted what I said and has told lies
3 based on that. And I believe he must have fallen into
4 this practice because of his own subjective view
5 that I was an advocate of the Tri-Partite Pact, and
6 that is why I deny the portion of the HARADA Diary
7 which you just read to me.

8 Q I am still asking you what motive he would
9 have had to make a false entry against you. Was he
10 an enemy of yours?

11 A Well, since, in various parts of his diary
12 which I have read, he has spoken ill of me, I can
13 hardly think he entertained friendly feelings towards
14 me.

15 Q How do you think he got this so-called false
16 idea of what you said then?

17 A I could hardly say.

18 Q Do you think that he would get that same idea
19 on two different occasions, on two different days?

20 A Well, I will give you an example. On one
21 occasion I asked Baron HARADA what Prince SAIONJI --
22 what old Prince SAIONJI thought of the Tri-Partite
23 Alliance idea, to which Baron HARADA replied that
24 SAIONJI was not a man who easily voiced his own opin-
25 ion. Later, on reading this so-called diary, I find

1 that I am represented to have asked him what the Lord
2 Keeper of the Privy Seal thought of the idea of the
3 Tri-Partite alliance. From this I judge that HARADA
4 often wrote down things contrary to actual conversa-
5 tion.

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1 Q Did you not visit the Navy Minister in the
2 early part of May, 1939, in connection with a possible
3 overthrow of the cabinet due to Navy opposition to
4 the rightists and their German-Italian attitude?

5 A I may have asked such a question. I don't
6 recall the details at this date.

7 Q "Did you visit the Navy Minister in the early
8 part of 1939," is the question I asked.

9 A Maybe.

10 Q And was the visit in connection with the
11 possible overthrow of the cabinet due to Navy opposi-
12 tion to the rightists in their German-Italian attitude?

13 A I have never had such a conversation with the
14 Navy Minister.

15 Q What was the purport of your conversation
16 with the Navy Minister if it didn't have something
17 to do with the Tri-Partite Alliance at that time?

18 A As is written in my affidavit, in early May
19 I received a request from the Vice Minister of War
20 for my services and as I, myself, did not know what was
21 going on in regard to the proposed Tri-Partite Pact
22 I may have visited the Navy Minister on this question,
23 but my recollection is that I visited the Foreign
24 Minister. If I did visit the Navy Minister at all it
25 must have been on this occasion.

1 Q Well, you weren't just acting as a messenger
2 boy on that occasion, were you?

3 A Since I had to reply to the Vice Minister of
4 War, I wanted to ask in what way their thoughts in regard
5 to the Tri-Partite Alliance were changing.

6 Q Now, was not that the main reason why you
7 went over to the Navy Minister, to try to convince him
8 to get the support of the Navy for the Tri-Partite
9 Alliance?

10 A No, that isn't so.

11 Q You state in your affidavit that while you were
12 Overseas Minister in 1940, Ott, the German Ambassador,
13 sought an interview with you and told you that a Japan-
14 German alliance would benefit Japan in the economic
15 development of the Southwest Pacific. What did you say
16 to him in reply to his suggestion?

17 A I didn't say either that I was for it or
18 against it.

19 Q What would have been the reason that Japan
20 required an ally such as Germany if Japan was only
21 seeking fair trade in the international markets in the
22 South Pacific?

23 A I have never advocated the theory that Japan
24 must have Germany as her ally.

25 Q Is it not true that it was intended at that

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1 time by Japan that she would get what she needed out
2 of the South Pacific by force if necessary and is that
3 not the reason there was a discussion of an alliance
4 with Germany?

5 A I don't believe that a single important leader
6 in a government position at the time had such thoughts.

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1 Q In this conversation with Ott you say you
2 didn't promise to tie the United States down in the
3 Pacific. Just what did you tell Ott after he gave
4 you his strong sales talk on the advantage to Japan
of an alliance with the German crowd?

5 A As I told you, on that occasion I expressed
6 neither my approval nor disapproval of such proposals.

7 Q You have heard in this court testimony to
8 the effect that after the interview Ott had with you
9 he notified Germany that you asked him what Germany's
10 views would be in case Japan made military advances
11 in the South Pacific. Do you think that he just
12 imagined that you said this?

13 A The report Ott sent to Germany was written in
14 such language as to indicate that I had said what
15 actually he had been telling me.

16 Q And would you say that it stands on the same
17 basis as the two entries in the HARADA diary which
18 were mentioned, concerning your views on the Tri-
19 partite Pact?
20

21 MR. BROOKS: If the Court please, I object
22 to that. You can see the inconsistency--

23 THE PRESIDENT: Objection upheld. That was
24 really argumentative.

25 Q Did you know that the Foreign Office of Japan

1 at or about the same time you were talking with Ott was
2 announcing its view that the status quo of the Nether-
3 lands Indies would be preserved?

4 A Yes.

5 Q And is it not true that economic demands then
6 being made by Japan on the Netherlands Indies, if
7 accepted by the Netherlands Indies, would have disturbed
8 the status quo in that region of the Pacific and would
9 have seriously interfered with the sovereignty of the
10 Netherlands East Indies?

11 A I had no knowledge of what demands were being
12 made on the Netherlands East Indies during the YONAI
13 Cabinet.

14 Q Did you, as Minister of Foreign Affairs,
15 learn of the decisions of the 12th and 16th of
16 July 1940 of the Army, Navy and Foreign Office author-
17 ities, under which Japan was to dominate the southern
18 areas?

19 A I knew nothing about such things. Indeed,
20 I doubt if they actually occurred.

21 THE PRESIDENT: We will recess for fifteen
22 minutes.
23

24 (Whereupon, at 1445, a recess was
25 taken until 1500, after which the proceed-
ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Captain Kraft.

4 LANGUAGE ARBITER (Captain Kraft): If the
5 Tribunal please, the following corrections are sub-
6 mitted:

7 Reference exhibit No. 3376, paragraph 1,
8 line 1, and record page 32,303, line 15, delete
9 "the future war," and insert "future wars."

10 Exhibit No. 3145-A, Annex No. 1, page 2,
11 lines 4 and 5: The Japanese counterpart for "Draft
12 of Basic Principles . . . negotiations for a
13 military alliance" is in red ink. Line 6: The
14 Japanese counterpart has a red line drawn through
15 "strengthening of Japan-Germany-Italy collaboration."
16 Line 7: Japanese counterpart of "4 September 1940"
17 is in red ink. Line 8: A red line is drawn through
18 the Japanese counterpart of "6 August 1940." Lines
19 9-11: Have the Japanese counterpart in red ink.

20 THE PRESIDENT: Thank you, Captain.

21 Colonel Fixel.

22 COLONEL FIXEL: In the last question asked
23 the witness before recess I inadvertently used the
24 words "Foreign Minister" when it should have been
25 "Overseas Minister." I would like to have the record

corrected.

1 BY COLONEL FIXEL (Continued):

2 Q Were there anti-British demonstrations
3 in Japan in July, 1939?

4 A I don't remember whether it was in July,
5 but there were such demonstrations around that time.

6 Q And is it not a fact that such demonstra-
7 tions were widespread and severe?

8 A I heard that such a demonstration had oc-
9 curred in Tokyo City. I don't know what demonstra-
10 tions occurred in the other parts of the country.

11 Q Did you attend a dinner party given for
12 MATSUOKA, Yosuke, by IKEDA, Seihin, on the 12th of
13 July, 1939, at which General MATSUI and Admiral
14 NOMURA were present?

15 A I don't recall for sure. There may have been
16 such a banquet.

17 Q Do you remember a banquet or a dinner party
18 given at or about that time at which anti-British
19 demonstrations was one of the topics discussed?
20

21 A No, I don't.

22 Q Do you recall discussing with KIDO in the
23 early part of July, 1939, the anti-British propaganda
24 on billboards and speeches that were made in anti-
25 British demonstrations?

1 A I recall that I met Marquis KIDO on my way
2 to a meeting of the Privy Council. As Marquis KIDO
3 was then Home Minister I suggested to him that measures
4 be taken to stop the anti-British demonstration which
5 had taken place in the city and to pave the way for
6 peaceful negotiations to proceed smoothly.

7 Q And at that time the accused KIDO was Home
8 Minister, was he not?

9 A Yes.

10 Q And he was the head of the Kempei?

11 A No.

12 Q Who was the head of the Kempei at that time?

13 A I don't remember.

14 Q Is it not a fact that the Kempei was leading
15 these anti-British demonstrations?

16 A No, I think that such a thing could never
17 have occurred.

18 Q Is it not a fact that the army was financing
19 these demonstrations to your knowledge?

20 A I don't know, but such a thing is utterly
21 impossible.

22 Q When you were Overseas Minister in the
23 HIRANUMA Cabinet did you not send the Kempei to China
24 and to Manchuria disguised as laborers?
25

A I have no recollection of ever having done

1 such a thing because the Overseas Minister is not in
2 a position to do such a thing. His duties do not
3 cover that class of work.

4 Q When you became Premier you expressed your
5 views to a committee of the Diet on what you believed
6 was the destiny of Japan, did you not?

7 A I have no recollection of having made a
8 speech on the destiny of Japan.

9 Q I would like to correct the date of that
10 speech to the time when you were Overseas Minister,
11 and the date is the 17th of February, 1940.

12 A It is not in my recollection.

13 Q Do you recall that in the course of the
14 speech you gave to the Budget Committee of the Diet
15 on 17 February 1940 that you said that Japan had a
16 destiny to advance in all directions: north, south,
17 east, and west? Does that recall it to you?

18 A I recall now.
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1 Q And did you not also have the view as expressed
2 in that speech that the religious beliefs of the
3 Buddhists, Confucianists and Christians in China would
4 have to conform to the spirit and culture of Japan?

5 A I should like to reply first of all to your
6 first question. May I do so?

7 Q You may, with the permission of the Court.

8 I thought the witness had replied to the first
9 question.

10 THE PRESIDENT: At all events, he did in part.

11 A Among our fellow Japanese, there were many
12 who advocated advance to the north, advance to the
13 south, and advance in various directions, and questions
14 based on these views were often voiced in the Diet.
15 And, therefore, I am sure that if you look at the
16 transcript of the proceedings of the Diet you will find
17 that I replied to the effect that Japan could advance
18 in any direction: north, south, east or west, which-
19 ever direction in which she could advance peacefully.

20 Q And did you not say that, and urge that the
21 spirit and culture represented by Imperial Japan should
22 be spread throughout the world?

23 A I have always held the view that the tradi-
24 tional cultural tendency of Japan since the days of
25 the founding of the empire embraced all ideologies and

1 was of such a quality as to be able to merge with all
2 such ideologies and, therefore, I am of the belief that
3 I made my replies based on such views.

4 Q How did you expect to convert to the spirit
5 and culture of Japan those who were unwilling to be
6 converted?

7 A I am sorry to have to speak in parables, but
8 if we advanced with an all-embracing capacity such as
9 that of a mirror, I can hardly think that any opposi-
10 tion such as that of which you have just spoken could
11 arise.

12 Q But if there was opposition, isn't it true
13 that you would overcome the opposition by force?

14 A The main purpose of force is defense, and if
15 force is used in order to quell any opposition, I think
16 that is a proof that any such person using such force
17 is without culture.

18 COLONEL FIXEL: Prosecution offers for iden-
19 tification IPS document 3030-N, an excerpt from
20 exhibit 3201 which has previously been marked for
21 identification.

22 MR. BROOKS: I object to it, your Honor, as
23 being improper offering of evidence at this time under
24 the circumstances. It has not been shown to the wit-
25 ness, and I do not know what it is. I do not have the

same before me.

1 I am sorry, I misunderstood him. I thought
2 he was offering it in evidence. He says it is only
3 for identification.
4

5 THE PRESIDENT: We had the same view as you,
6 Captain Brooks. But apparently it is all for identifi-
7 cation.

8 Excerpts are never tendered for identification.

9 Q May the witness be shown excerpt from -- will
10 you examine that document, witness, and state whether
11 it is a speech you gave before the Budget Committee
12 of the Diet on 17th of February, 1940?

13 A This is the reply made by myself in a Diet
14 session.

15 COLONEL FIXEL: I offer the excerpt as an
16 exhibit.

17 MR. BROOKS: I object to the introduction of
18 this document at this time, your Honor, unless the
19 prosecution shows why this speech was not offered on
20 the general phase of this case against this man, when
21 we would have had the time to have investigated the
22 surrounding circumstances. At this late date I say
23 it is too late. I wish the Court would consider that
24 in this matter new evidence is being introduced against
25 this man when at this late phase of the case we do not

1 have the time and the facilities to properly investigate
2 and have translated and put forth a defense to things
3 that are brought in now after our case has been prepared.

4 THE PRESIDENT: Captain Brooks, do you realize
5 that this question has been repeatedly raised by you
6 and repeatedly decided against you, and that you are
7 persisting?

8 MR. BROOKS: I ask the Court to reconsider
9 this because of the technical aspects of presenting
10 the defense in this case, which would have to be made
11 by written documents served on the prosecution in
12 advance.

13 THE PRESIDENT: All I know is that this matter
14 has been decided--

15 MR. BROOKS: May I finish, your Honor?

16 THE PRESIDENT: --repeatedly against you,
17 and that every British Judge in this court takes the
18 view that that evidence could be properly admitted in
19 his court. As I am reminded, some of the non-British,
20 too.

21 MR. BROOKS: I wish to state that in this
22 case the circumstances of this trial before this Tribu-
23 nal are peculiar and different than in the normal case
24 before a British court; and I think that the Court should
25 have had made apparent to it by this time the handicap

1 and injustice of having to face new evidence at this
2 late date under the technical rules for the production
3 of evidence on behalf of the defense that we must
4 follow.

5 THE PRESIDENT: If it is a handicap, it is
6 a handicap for the defense in all British courts and
7 has been from time immemorial. It is not a handicap.

8 MR. BROOKS: Many rules of national courts
9 are amended from time to time, and I think that has
10 no bearing on the case before this Tribunal, because
11 our rules of procedures and technicalities applied
12 here are not found in the national courts of every
13 nation.

14 THE PRESIDENT: Not one of my Colleagues
15 support you. The objection is overruled.

16 COLONEL FIXEL: May this document have an
17 exhibit number, if the Court please?

18 THE PRESIDENT: It is admitted on the usual
19 terms.

20 CLERK OF THE COURT: Prosecution document No.
21 3030-N, being an excerpt from exhibit No. 3201 for
22 identification only, will receive exhibit No. 3382.
23

24 (Whereupon, the document above
25 referred to was marked prosecution exhibit
No. 3382 and received in evidence.)

1 COLONEL FIXEL: The prosecution desires to
2 read only the first two paragraphs of this document:

3 "Meeting of the Budget Committee on 17 Feb
4 40 in the House of Representatives, 75th Session of
5 the Imperial Diet.

6 "Minister of State KOISO:

7 "Just now, we heard Mr. SHINOHARA's speech
8 which was very rich in content and invaluable. In
9 his conclusion, he presented two questions. I think
10 that the first, the problem as to whether we should
11 advance northward or southward, is of considerable
12 importance. To what I am now going to say, you might
13 say that it is somewhat a departure from reality or
14 tell me not to speak so fanatically. However, I can-
15 not positively say that I will not make this depart-
16 ure. Therefore, I think that I should like to make
17 my speech brief.

18
19 "As the original recognized national policy
20 of Japan, we have been firmly handed down from gener-
21 ation to generation, what is called HAKKOICHIU,
22 TENGYO-KAIKO (TN: An interpretation of this is:
23 the resumption of the mission handed down to the
24 Emperors by the Goddess AMATERA) or RIKIGO KENTO
25 (TN: An interpretation of this is: making the uni-
verse the Emperor's capitol.) Although this is

1 expressed in various words, it means, after all, world
2 wide expansion with the truly magnificent spirit and
3 culture of Japan which we firmly believe. Emperor
4 MEIJI said in the first year of his succession, 'I
5 will govern this country myself, give all you subjects
6 freedom from care and finally cross the seas and spread
7 our national glory throughout the four corners of the
8 world.' I believe that this great sentence expressed
9 in such a manner did, after all, place its underlying
10 note on this belief. In explaining what this means,
11 it means that in our recognized national policy,
12 advancement in any one direction was not considered
13 in our advance to the north, south, east, or west.
14 In other words, Japan's destiny is advancement in all
15 four directions. However, the question as to which
16 direction should be emphasized in the successive
17 generations is, I think, the problem in this gener-
18 ation. If that is the case, what is best in this
19 present generation is as stated in Mr. SHINOHARA's
20 speech. I might be somewhat dogmatic, but the Japa-
21 nese race is surely a divine race. However, I think
22 that there is a mixture of Eskimo, Ainu, Indonesians
23 and the Miao of China. I think that the present
24 YAMATO (Japanese) race, which controlled and unified
25 these many races, has the quality to advance in any

1 direction and to grasp and assimilate any culture
2 whether this fact is known or not. As to the larger
3 portion of the lineage of the YAMATO race, if we say
4 that it is undoubtedly a divine race, or that it is
5 the TAKAMAGAHARA race, it is within the province of
6 scholars to say that it can endure the hot zone or
7 the cold zone. Therefore, I think that we should
8 hesitate to make a positive statement. I am one
9 person who agrees entirely with Mr. SHINOHARA on that
10 point. Fortunately, however, I believe that we must
11 consider that because we possess Indonesian blood,
12 we also have the capacity to progress towards the
13 south. Therefore, I believe that at present, it is
14 indeed a natural tendency for us to proceed towards
15 the north and the continent because of the main
16 feature of our racial composition. However, a nation
17 cannot stand without defense, just as administration
18 cannot stand without economy. It has clearly been
19 proven by ancient history of civilization that if
20 we are to quickly and readily obtain economic rights
21 and interests, it would be more convenient to do so
22 by sea transportation rather than by overland routes.
23 Therefore, I again believe that, just as Mr. SHINOHARA
24 stated, we must proceed bravely towards economic
25 development in the south where resources are thought

1 direction and to grasp and assimilate any culture
2 whether this fact is known or not. As to the larger
3 portion of the lineage of the YAMATO race, if we say
4 that it is undoubtedly a divine race, or that it is
5 the TAKAMAGAHARA race, it is within the province of
6 scholars to say that it can endure the hot zone or
7 the cold zone. Therefore, I think that we should
8 hesitate to make a positive statement. I am one
9 person who agrees entirely with Mr. SHINOHARA on that
10 point. Fortunately, however, I believe that we must
11 consider that because we possess Indonesian blood,
12 we also have the capacity to progress towards the
13 south. Therefore, I believe that at present, it is
14 indeed a natural tendency for us to proceed towards
15 the north and the continent because of the main
16 feature of our racial composition. However, a nation
17 cannot stand without defense, just as administration
18 cannot stand without economy. It has clearly been
19 proven by ancient history of civilization that if
20 we are to quickly and readily obtain economic rights
21 and interests, it would be more convenient to do so
22 by sea transportation rather than by overland routes.
23 Therefore, I again believe that, just as Mr. SHINOHARA
24 stated, we must proceed bravely towards economic
25 development in the south where resources are thought

1 to be in abundance. Therefore, at the present, we
2 should follow the increased tendency of the race to-
3 wards the continent and the north with more than
4 ample economic development and at the same time we
5 shall extend our economic rights and interests to-
6 wards the south with all our might. In this, I think
7 that the necessary movement of the race is absolutely
8 indispensable. In short, I believe that after all,
9 since we should not emphasize any one direction in
10 our northward or southward advancement, we should
11 advance as indicated in Mr. SHINOHARA's talk."

12 BY COLONEL FIXEL (Continued):

13 Q Now, Mr. Witness, at the time you made this
14 speech, is it not a fact that there were economic
15 negotiations pending with the Netherlands East Indies?

16 A I was in the Overseas Ministry, but I never
17 heard of any such problem.

18 Q Those sorts of things were kept in the dark
19 from the cabinet, is that correct?

20 Do you mean to tell this Tribunal that you
21 didn't know that Japan was making strenuous efforts
22 at this very time to secure further supplies of oil,
23 tin, wolfram, copper, and other articles through
24 negotiations with the Netherlands East Indies?

25 A Well, maybe negotiators had been dispatched

1 from the Foreign Ministry to the Netherlands East
2 Indies and maybe such negotiations were going on,
3 but, as a matter of fact, I knew very little about
4 them.

5 Q Well, you found out about them shortly
6 afterwards, didn't you?

7 A I don't recall.
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1 Q Isn't it a fact that you yourself were
2 tentatively selected as an envoy to conduct the
3 final negotiations which were considered to be
4 the ultimatums given to the Netherlands East
5 Indies in the month of August, 1940, just a few
6 months after the speech you made?

7 A I knew about that.

8 Q And isn't it true that you said that you
9 would go provided you were sent on a battleship, and
10 in case of emergency you would have the right to fire
11 and destroy them?

12 A That is an utterly fantastic story. To
13 begin with, the battleship -- the question of a
14 battleship firing is something that belongs to the
15 prerogative of the Supreme Command. How could I,
16 on my own authority, not being in the Navy nor even
17 in active service, order a battleship to fire? The
18 State laws absolutely prohibit any such action and
19 you can see, even from that, that the story about
20 firing is an utterly groundless rumor.

21 THE PRESIDENT: We have heard enough. We
22 do not want to hear any more about that.

23 Q Was not the real intention of Japan in
24 engaging in the war against the United States her
25 desire to expel Anglo-American influence from China

and the Asiatic-Pacific regions and to reconstruct
1 a Greater East Asia?

2 A To begin with, since I was of the opinion
3 that Japan should not fight against America and
4 Britain, I have no recollection of ever having
5 voiced such opinions as you have just told me.
6

7 COLONEL FIXEL: In connection with that
8 answer, I refer the Tribunal to exhibit 277, record
9 page 3704.

10 Q Did you act as a member of the Committee
11 for the Establishment of Greater East Asia in April,
12 1942?

13 A I was one of the members.

14 Q Was it not Japan's intention to close the
15 door of the Asiatic countries to others except on
16 her own terms?

17 A No, I have never heard of that.

18 Q In connection with the speech you made
19 before the 85th session of the Diet on 7 September
20 1944, in which you promised future independence to
21 the Netherlands East Indies, were you familiar with
22 the announcement of the Chief of Staff of the Osamu
23 Army Corps, made in the same month you made the
24 promise of East Indies independence, that there should
25 be no great alterations in the operation and business

1 structure of the military government? Do you recall
2 that?

3 A No, I did not.

4 Q As Prime Minister, did you know of the
5 decision of the Supreme War Leadership Council on
6 the 1st of February 1945, to place all military
7 and armed police forces of French Indo-China under
8 the joint command of the Japanese Army, subject,
9 however, to the orders of the Japanese Army on
10 matters of organization, allotment and movement?

11 A I know of the matters decided on on February
12 1, 1945. The main purpose of this decision was to
13 place the armed forces and the armed police in French
14 Indo-China under the command of the Japanese forces.
15 And I recall that there also was a plan to place
16 communications and transportation under Japanese
17 control, but that was an auxiliary decision.

18 Q That's right. And were you familiar with
19 the six-hour ultimatum given by the Japanese to the
20 Governor General of Indo-China to bring about the
21 surrender of all of those agencies that have been
22 mentioned, such as communications and the military
23 forces?
24

25 A I remember having received such a report
through the Minister for Greater Asia.

1 Q Did you have any authority in this matter
2 to take any action to stop such high-handed procedure?

3 A I don't think the order included any such
4 wording as "to take high-handed measures." I believe
5 that the order contained words to the effect that
6 the understanding of the Governor General of French
7 Indo-China should be obtained.

8 Q Did you think six hours would be a reasonable
9 time within which the Governor General could determine
10 whether he was to capitulate or to seek his own
11 protection against the Japanese who had been permitted
12 to come in as friends?

13 A Since that depended entirely on circumstances
14 in that area, the decision of the Supreme War Guidance
15 Council did not set a specific time limit of six hours.

16 Q Is it a fact that in the winter of 1944,
17 when you were Premier, the Japanese Army thrust into
18 the interior provinces of Kwangsi and Kweichow, within
19 immediate reach of China's wartime capital, Chungking?
20

21 A Are you referring to Kweilin and Liuchow?

22 Q I am referring to Kwangsi and Kweichow.

23 A I don't know.

24 Q An examination of your affidavit discloses
25 that you claim you opposed the March, 1931 Incident;
you tried to prevent the Manchurian Incident; you

1 opposed the China Adventure; you opposed the
2 Tripartite Pact; you opposed going into a war
3 against the United States; and you tried to settle
4 the China war when you became Premier, and in all
5 of these important matters you were frustrated and
6 prevented from having your ideas and desires prevail.
7 If you disagreed with and were opposed to these
8 events and policies, why did you accept one important
9 position in the Government after another whereby
10 you became one of the protagonists of the very
11 matters you now say you so strenuously objected to?

12 A The way of we Japanese is that no matter
13 what our own personal opinions and our own personal
14 arguments may be, once a policy of State has been
15 decided upon, it is our duty to bend all our efforts
16 for the prosecution of such policy. This has been
17 the traditional custom in our country.

18 COLONEL FIXEL: That completes the
19 prosecution's cross-examination.

20 THE PRESIDENT: We will adjourn until
21 half-past nine tomorrow morning.

22 (Whereupon, at 1600, an adjournment
23 was taken until Wednesday, 5 November 1947 at
24 0930.)
25

5th Nov 44

Letter of 4th Dec. 44

5 NOVEMBER 1947

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I N D E X

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2829	3383		Excerpt from Exhibit No. 3038-B - Study on the Organization of MP Force in Manchuria		32446
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1 Wednesday, 5 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE R. B. PAL, Member
15 from India, not sitting from 0930 to 1600; HONORABLE
16 JUSTICE HENRI BERNARD, Member from the Republic of
17 France, not sitting from 1100 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. The
5 prison surgeon at Sugamo certifies that he is too ill
6 to be able to attend the trial today. The certificate
7 will be recorded and filed.

8 Have you completed your cross-examination,
9 Colonel?

10 COLONEL FIXEL: I made a statement at the
11 conclusion of yesterday's proceeding that the prosecu-
12 tion had completed its cross-examination.

13 THE PRESIDENT: Mr. Logan.

14 MR. LOGAN: If the Tribunal please.
15 - - -

16 K U N I A K I K O I S O, an accused, resumed the
17 stand and testified through Japanese interpreters
18 as follows:

19 CROSS-EXAMINATION (Continued)

20 BY MR. LOGAN:

21 Q General KOISO, the prosecution asked you some
22 questions the day before yesterday on pages 32,277 and
23 32,278 of the record with respect to a conversation you
24 are supposed to have had with the accused KIDO; do you
25 recall that? That was to the effect that you are

1 supposed to have told KIDO that you seemed to be in
2 favor of a HIRANUMA Cabinet in April or May, 1932.

3 A I have no recollection as having ever said
4 that directly to Marquis KIDO.

5 Q And the prosecution also referred to a diary
6 entry of Marquis KIDO of May 17, 1932, apparently to
7 back up the questions they were asking you. Now, in
8 that diary entry Marquis KIDO records that Lieutenant
9 Colonel SUZUKI told him that War Vice Minister KOISO
10 seems to be in favor of a HIRANUMA Cabinet. Did you
11 have such a conversation with Lieutenant Colonel
12 SUZUKI or with someone who might have told him that?

13 A I have no such recollection.

14 Q No recollection of having talked to Lieutenant
15 Colonel SUZUKI or no recollection of having said that
16 you were in favor of a HIRANUMA Cabinet to any person?

17 A I have no recollection of ever having said
18 that, but at the same time I cannot say that I absolutely
19 did not say such a thing.

20 Q On page 32,281 of the record you state that
21 KIDO's diary, court exhibit 179-F, is completely with-
22 out foundation. That exhibit is a diary of August 7,
23 1931, in which KIDO is reporting information which
24 Baron HARADA gave him. When you say that that exhibit
25 is completely without foundation do you mean by that

1 the contents of the diary for that date do not
2 properly portray or set forth what Baron HARADA
3 told KIDO or do you mean by that that the information
4 which Baron HARADA transmitted to KIDO is inaccurate?

5 A If I am to explain to you a part of this
6 in some detail, the contents of exhibit 179, I should
7 tell you that this entry says or alleges that KOISO,
8 NINOMIYA and TATEKAWA had held a meeting at the
9 official residence of the War Minister and, using
10 one HASHIMOTO, Shigeto as sort of a tool and inviting
11 the services of Dr. OKAWA, were planning to utilize
12 the Social Masses Party to carry out a political
13 change.

14 Q General, I don't like to interrupt you but
15 I think that is beside the point. This exhibit is in
16 evidence and sets forth this conversation which KIDO
17 had with Baron HARADA.

18 MR. BROOKS: I would like for the witness
19 to complete the answer he started, if your Honor please.

20 MR. LOGAN: This is cross-examination.

21 THE PRESIDENT: I did not understand it, as
22 far as he went, to be an answer to the question put,
23 so put your question.

24 Q All I am interested in, General, is when you
25 state that this exhibit is completely without foundation,

1 do you mean by that that the information which
2 Baron HARADA gave Marquis KIDO was not correct?

3 A I do not know the source but I deny the
4 facts as set forth -- alleged there.

5 THE PRESIDENT: That is as much as he
6 could say.

7 Q But you have no quarrel, General, with the
8 facts as recorded by Marquis KIDO as having come from
9 Baron HARADA, have you? In other words, you do not
10 deny that Baron HARADA told KIDO what he records in
11 his diary?

12 MR. BROOKS: If your Honor please, I ask
13 that the witness be allowed to explain his answer
14 which he had started to do before, having answered
15 the question giving his reasons why he denies those
16 facts.

17 MR. LOGAN: I am not cross-examining this
18 witness as to the truth or falsity of those facts.
19 I am merely cross-examining to find out whether or not
20 he denies that HARADA told KIDO what is recorded in
21 his diary; that is all.

22 THE PRESIDENT: Let him answer, but we know
23 what it is going to be.

24 A I cannot deny that.

25 MR. LOGAN: That is all.

KOISO

CROSS

38,437

MR. TAKAYANAGI: I wish to conduct a brief
cross-examination for defendant SUZUKI.

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CROSS-EXAMINATION (Continued)

1 BY MR. TADAANAGI:

2 Q When the witness was Chief of the Military
3 Affairs Bureau, was there another person by the name
4 of SUZUKI besides defendant SUZUKI in the Military
5 Administration Section of the Bureau?
6

7 A After I testified yesterday I discovered
8 later, on second thought, that there was one more
9 SUZUKI in the Military Administration Section.

10 Q The SUZUKI who is not the defendant SUZUKI,
11 what is his first name?

12 A The name was SUZUKI, Sosaku.

13 Q Then with regard to the stamp or the seal on
14 Court exhibit 3377, is it not unclear whether that
15 stamp is of defendant SUZUKI or not?

16 THE MONITOR: That seal is.

17 A Before replying to that question, I should
18 like to state to the Tribunal, if I may, that yester-
19 day I said that the seal on the document was that of
20 the accused SUZUKI. That was a hasty remark on my
21 part, and I should like at this time to make an
22 apology.
23

24 THE MONITOR: Hasty and careless.

25 A (Continuing) In the Military Administration
Section the accused SUZUKI was in charge of Manchurian
problems, but questions pertaining to military organi-

1 zation were in the hands of SUZUKI, Sosaku. There-
2 fore, I think that the seal "SUZUKI" on the document
3 may have been the seal of SUZUKI, Sosaku.

4 MR. TAKAYANAGI: That's all.

5 THE PRESIDENT: Major Furness.

6 CROSS-EXAMINATION (Continued)

7 BY MR. FURNESS:

8 Q General KOISO, when did you become commander
9 of the Korean Army?

10 A The 2nd of December, 1935.

11 Q You testified that the total strength of the
12 Korean Army at the time that you took command was
13 approximately twenty thousand. Was this strength in-
14 creased at all prior to the Changkufeng Incident?

15 A About one year prior to the outbreak of the
16 Changkufeng Incident the strength very greatly de-
17 teriorated -- decreased.

18 Q Between the time of that decrease -- and what
19 did it decrease to?

20 A With the outbreak of the China Incident the
21 20th Division was brought under the command of the
22 China Garrison Forces, and the unit remaining in Korea
23 became a unit in absentia. Although I have no clear
24 recollection as to the figures, I think the decrease
25 was by some five to six thousand.

Q Was it, after that decrease, increased at all

1 prior to the time that you were transferred?

2 A After the reduction and reorganization of the
3 border guards was carried out, and I think there was
4 an increase of from five to six hundred.

5 Q And that reorganization brought up two
6 battalions, is that correct?

7 A There was a reduction in two battalions --
8 strike that, please. Two battalions were reduced or
9 eliminated and three new battalions were created, so
10 I think there was a net increase of one battalion.

11 Q And when was that done?

12 A I have no clear recollection, but it may
13 have been in 1936 or possibly in 1937.

14 Q You testified that on July 3 Soviet cavalry-
15 men were seen on the crest of Chengkufeng Hill, that
16 they were increased on the 11th, and by the 13th
17 forty were observed on the crest of the hill. Had
18 any Soviet troops been reported in that area prior
19 to July, 1938?
20

21 A Prior to that, there had never been any
22 stationary Soviet troops in that vicinity.

23 Q You testified that you received reports that
24 Soviet troops were engaged in construction work on
25 the 11th and 13th days of July, 1938. What sort of
construction work was reported?

1 A In my recollection, it was that the Soviet
2 troops were digging trenches on the slope of the --
3 in Manchurian territory.

4 Q You mean on the western slope of Hill Chang-
5 kufeng?

6 A Yes, that is what it would amount to.

7 Q I'll pass to another subject.

8 On pages 32,429 and 32,430 you testified
9 about certain actions relating to French Indo-China.
10 As Prime Minister at that time, were you aware that
11 De Gaulle, the head of the Provisional Government of
12 France, which had been recognized by the Allies,
13 which Allies were at war with Japan, had announced
14 over Radio France on the 29th of August, 1944 that
15 France had been at war with Japan since 8 December,
16 1941?

17 A No, I did not know anything about the broad-
18 cast.
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1 Q Had you been advised as Prime Minister that
2 the Provisional Government of France had declared
3 France was at war with Japan? I mean at the time that
4 those actions were taken by the Japanese in 1945 re-
5 garding which you have testified.

6 A At the Supreme Council for the Direction of
7 War Foreign Minister SHIGEMITSU explained that even
8 before the DeGaulle Regime had returned, or entered
9 France, while it was still in Africa, it had declared
10 war against Japan, and that even after its return to
11 France that situation had not in any way changed.

12 THE PRESIDENT: Dr. UZAWA.

13 DR. UZAWA: I am Counselor UZAWA. In view
14 of the fact that counsel for SHIRATORI is absent I
15 should like to conduct a cross-examination in his
16 place, or direct examination. I wish to ask the
17 Court's permission.

18 THE PRESIDENT: Where is SHIRATORI's counsel?
19

20 DR. UZAWA: I think that in view of the fact
21 that the transportation conditions on the electric
22 tram cars are not good, he was not able to be here at
23 this time.

24 THE PRESIDENT: Well, we need some substantial
25 reason for permitting the change, Doctor.

MR. BROOKS: If your Honor please, if it is

direct examination it should follow my examination,

1 and that may give him a little further time under our
2 rules.

3 DR. UZAWA: May I proceed with direct examina-
4 tion?

5 THE PRESIDENT: Not now. I think Captain
6 Brooks' suggestion is a good one actually, and your
7 examination will be direct and not cross-examination --
8 redirect.

9 Captain Brooks.

10 REDIRECT EXAMINATION

11 BY MR. BROOKS:

12 Q While you were in the War Ministry as the
13 Chief of the Military Affairs Bureau, or as the Vice-
14 Minister, did you ever have a look at the so-called
15 secret diaries of the War Ministry?
16

17 A I have never seen this so-called great secret
18 diary as compiled.

19 Q Now, was there, or is there any sign, seal,
20 or otherwise on the documents filed in these secret
21 diaries to show whether or not you or your superiors,
22 either Vice-Minister or War Minister, ever had a look
23 at them?

24 A Yes, distinctions can be made for, on inspec-
25 tion of any document, it can be noticed whether there

1 are any notations or markings indicating whether a
2 particular person has seen the document or not.

3 Q Give us some examples of that, if you please,
4 indicate what kind of a distinction or sign or mark?

5 A A seal or a signature.

6 Q That was routine procedure for documents that
7 had been examined by any member of the War Ministry
8 to notify his reading or looking at that document by
9 placing his seal or signature on it, is that correct?

10 A Yes.

11 Q Were there or were there not documents filed
12 in the secret diaries which were not brought to the
13 notice of yourself or to your superiors?

14 A The two documents which I saw yesterday did
15 not indicate that I nor the Vice-Minister nor the War
16 Minister had seen them.

17 Q By that answer you mean there was no signa-
18 ture nor seal placed upon them showing that they had
19 been submitted for your examination?

20 A That is so.

21 Q Do you know of any reason why such documents
22 that you have just referred to were not shown to you,
23 or that you did not see them?

24 A Of course, there are various reasons, but
25 in most cases when any matter is not adopted in the

1 lower levels and the matter is abandoned there, then
2 the matter is finished after an oral report has been
3 made of the outline. It indicates that the matter had
4 been disposed of in the lower levels and had not been
5 submitted to the higher levels for any advice.

6 MR. BROOKS: May the witness be shown the
7 original of exhibit 3376? I believe that is an excerpt
8 from exhibit 3038-B.

9 (Whereupon, a document was handed to
10 the witness.)

11 MR. BROOKS: Also give the witness the
12 Japanese copy of exhibit 3376.

13 THE PRESIDENT: Are any steps being taken to
14 get in touch with SHIHATORI's counsel?

15 Proceed, Captain.

16 Q Witness, look at the middle of the ninth
17 sheet of the text, excluding the covers, of the so-
18 called "Study on the Organization of Military Police
19 Force in Manchuria." Will you find there the sentence:
20 "The basis of determination of the number of military
21 police force in Manchuria on the peace time footing will
22 be as follows"?

23 MR. BROOKS: Will you also give the witness
24 defense document 2829?
25

(Whereupon, a document was handed to

1 the witness.)

2 Q Can you find that place?

3 A I haven't found the place yet.

4 MR. BROOKS: I will have the Marshal hand
5 you a Japanese copy of the defense document 2829 which
6 you can compare to find the place. It is in the middle
7 of the ninth sheet on the back side of the text of
8 the Japanese original. This paragraph starts--

9 A Yes, I have found the place.

10 Q And you find the sentence that I have read
11 to you there that appears in defense document 2829?

12 A May I have the defense document number re-
13 peated?

14 Q The one you have in your hand. Starting with
15 the words: "The basis of determination of the number
16 of military police force in Manchuria on the peace
17 time footing will be as follows."

18 A I know now.

19 MR. BROOKS: I offer defense document 2829
20 as a supplement to IPS document No. 3203, which is
21 exhibit 3376, an excerpt from exhibit 3038-B. These
22 are part of the unread portions from which the exhibit
23 3376 is an excerpt.
24

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2829

1 will receive exhibit No. 3383.

2 (Whereupon, the document above re-
3 ferred to was marked defense exhibit No. 3383,
4 and received in evidence.)
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1 MR. BROOKS: I will read paragraphs 1, 2, and
2 3 and then the last paragraph of this document. I think
3 simultaneous translation has been provided;

4 "The basis of determination of the number of MP
5 force in Manchuria on the peace time footing will be as
6 follows:

7 "To satisfy the war-time requirement of men.

8 "To cause no hindrance to the peace-time business
9 of MP.

10 "To maintain harmony between the peace-time
11 (organization) and the war-time (organization).

12 "For the above purpose, we have prepared a plan
13 of organization, the gist of which is as follows:

14 "(Details are shown in Table III attached hereto,

15 "Headquarters of MP in Manchuria (at Mukden).

16 "Kwantung MP Unit: Port Arthur Section, Dairen
17 Section, Tashichao Section, Yiukon Section: approximate-
18 ly 200 men including chiefs."

19 That should be spelled y-i-u-k-o-w.
20

21 THE PRESIDENT: I am told it should be
22 y-i-n-k-o-w.

23 MR. BROOKS: Y-i-n, that is right; Yinkow,
24 y-i-n-k-o-w.

25 "Mukden MP Unit: Mukden, Liaoyan, Fushun,
Lieushenkuan, Antung: approximately 300 men including

chiefs.

1 "Chanchun MP Unit (At Chanchun): Suupingai,
2 Tielin, Kungchuling, Chanchun: approximately 400 men
3 including chiefs.

4 "Independent MP Battalion (at Mukden):
5 1st Section, 2nd Section: approximately 400 men includ-
6 ing chiefs.

7 "As to the Independent MP (Battalion) in this
8 table, the men will be first enlisted in other branch
9 services for about 6 months and then joined in the
10 service (of MP) for about one year. The bilateral
11 system of conscription and volunteering will be adopted,
12 following the example of the Navy. After one year and
13 half of enlistment, that is to say, at the time of
14 release from the MP Battalion, a number of the men will
15 be posted as corporals in the Section. In other words,
16 the Battalion will become an educational organ of MP.
17 The Units other than the Independent Battalion will
18 be active service organs, the system of which is more
19 or less similar to the present one.

20
21 "(2) According to the (plan of) organization
22 above mentioned, we shall be able to command active
23 MPs of approximately 400 men and educated MPs of
24 approximately 400 men, the total of which will supply
25 1,100 MPs annually, although their quality may vary in

1 some degree. Furthermore, the number of men released
2 annually from each MP Unit will be recruited from the
3 Independent Battalion, while the Independent Battalion
4 will release those who are not sent to each Unit as
5 recruits, thereby acquiring 400 MPs on reserve annually.
6 After 10 years, approximately 4,700 MPs will be supplied
7 by the total of 4,000 men, 400 multiplied by 10, (on
8 reserve) and 700 men on active service. In the 11th
9 year, approximately 5,000 men will be secured by adding
10 4,400 and 700. Supposing that these men released from
11 the Independent MP Battalion get the same limit of ser-
12 vice years as ordinary conscripts, we shall be able to
13 supply 7,000 MPs at all times during the period of 14
14 or 15 years of the first and second reserve services.
15 Considering the rate of decrease therefrom as 15% and
16 the addition of NCOs (of MP) after the maturity of the
17 second reserve service, the total number will not
18 exceed 6,000 men.

19 "Thus, ten or more years are required to
20 supply 5,000 MPs. In order to supplement MP force
21 until then, we must, first of all, fill up the number
22 of 1,100 of active service MPs by the proposed amend-
23 ment of the organization and adopt the system of
24 temporary transfer of branch services to recruit the
25 annual deficiency. For such purpose and in case of

1 some degree. Furthermore, the number of men released
2 annually from each MP Unit will be recruited from the
3 Independent Battalion, while the Independent Battalion
4 will release those who are not sent to each Unit as
5 recruits, thereby acquiring 400 MPs on reserve annually.
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17 second reserve service, the total number will not
18 exceed 6,000 men.

19 "Thus, ten or more years are required to
20 supply 5,000 MPs. In order to supplement MP force
21 until then, we must, first of all, fill up the number
22 of 1,100 of active service MPs by the proposed amend-
23 ment of the organization and adopt the system of
24 temporary transfer of branch services to recruit the
25 annual deficiency. For such purpose and in case of

1 need, temporary laws and regulations should be issued
2 to cover the deficiency by means of the transfer of
3 branch services."

4 Paragraphs 4 and 5 are omitted. I think part
5 of that is in prosecution document 3376.

6 "We have, in the above, arrived at a plan of
7 organization in peace-time by discussing the number of
8 men required at war-time. Many aspects of the present
9 condition of MP at home and abroad will not meet the
10 demand of operation in future. The same will apply to
11 MP units in Korea and Japan proper. We must, there-
12 fore, make further study and investigation and prepare
13 a satisfactory solution for the harmony between the
14 peace-time (organization) and the war-time (organization)."

15 BY MR. BROOKS (Continued):

16 Q Now, Mr. Witness, what if anything do you have
17 to say about exhibit 3376 and the supplement thereto,
18 exhibit 3383? Do you have any further explanation of
19 those documents?

20 A Then I will say a word. As the seal on this
21 document indicates, I did not see the document at the
22 time, but I recall that Colonel ANDO, Chief of the
23 Military Service Section, gave me an oral report on
24 the outline of this plan at the time. My recollection
25 of the gist of the report is this: Colonel ANDO said

1 that Major General MINE, commander of the MPs, had sub-
2 mitted his personal views on a matter the object of
3 which was to bring about an expansion of the Kempeitai.
4 Colonel ANDO further said that this was MINE's own
5 idea and a highly fantastic one and impossible of
6 execution. He then concluded his report, saying that
7 such being the case he was not going to submit the
8 matter to the Chief of the Military Affairs Bureau.

9 Q Than this matter wasn't -- this draft wasn't
10 carried into action. Is that the interpretation of
11 your statement?

12 A No, it wasn't carried into action.

13 Q And, as I understand, was shelved by the
14 Military Police Section, is that correct?

15 A No, it was completely shelved and abandoned
16 by the Military Service Section.
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1 MR. BROOKS: Service section.

2 Now, may the witness see exhibit 3377.

3 If your Honors please, I have only had time
4 to make a cursory examination of these later docu-
5 ments. The one I have just passed is the only one
6 I have had a chance to thoroughly go into. There are
7 a few errors I have picked up that I would call to
8 the Court's attention, but there may be more.

9 Q This exhibit, Mr. Witness, appears to be
10 from the Chief of Staff of the Kwantung Army, MIYAKE,
11 to SUGIYAMA, Vice-Minister of War. In the certifi-
12 cate it states, it refers to matters of sending of
13 documents in regard to the draft plan for the current
14 transitory organization in regard to the policy
15 towards Manchuria and Mongolia. Now, I notice the
16 day of its receipt is December 9, 1931. This is just
17 one day prior to the resignation of the WAKATSUKI
18 Cabinet. That is correct, is it not?

19 A Yes.

20 Q And the War Minister, MINAMI, resigned,
21 that is the next day, on the 10th of December, 1931?

22 A Yes.

23 Q Now, what, if anything, do you have to say
24 in relation to this document?

25 A As I stated to the Court yesterday, this

1 document was certainly prepared by the Kwantung
2 Army, but there is nothing to indicate that the War
3 Minister or the Vice-Minister or the Chief of the
4 Military Affairs Bureau saw this document.

5 Q Then this draft plan or temporary system
6 proposed by the Kwantung Army was handled by lower
7 sections of the War Ministry; is that correct?

8 Can you tell whether it was ever put into
9 effect or any further action taken upon the proposed
10 plan?

11 A As far as the War Ministry authorities were
12 concerned no directives of the kind were issued, but
13 I do not know whether the Kwantung Army itself took
14 any steps as are set forth in the plan indicated in
15 this document.

16 LR. BROOKS: Now, may the witness see
17 exhibit 3378-A.

18 If the Tribunal please, I wish to refer this
19 exhibit 3378-A to the Language Arbitration Board to
20 check the document, as there appear to be matters
21 in the English copy covered by whole paragraphs that
22 do not appear in the Japanese original document.

23 THE PRESIDENT: Well, we invite you to point
24 out the latent deficiencies to Captain Kraft. You
25 need not indicate them here, Captain Brooks.

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MR. BROOKS: A few examples are the last paragraph of page 8, the entire pages 9 and 10, and other mistakes in translation that I think call for a complete revision of the document.

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2 paragraph of page 8, the entire pages 9 and 10, and
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1 Now, Mr. Witness, on your examination of the
2 Japanese original of this exhibit 3378-A, does it
3 provide control of civil administration, or only mili-
4 tary administration?

5 THE PRESIDENT: Colonel Fixel.

6 COLONEL FIXEL: I submit, if the Tribunal
7 please, that the document should speak for itself,
8 and the interpretation of the language would be a
9 matter for the Tribunal rather than for the witness.

10 MR. BROOKS: I asked the witness on the
11 Japanese original. This document in English overspeaks
12 for itself; that is my complaint.

13 THE PRESIDENT: Then the matter is not for
14 the witness, but for the arbitration board.

15 MR. BROOKS: I might also add, your Honor,
16 that I wish also for him to point -- if there was any
17 control of civil administration, he could point it out.
18 It may save our recalling the witness later on.

19 THE PRESIDENT: We cannot permit him to perform
20 our task for us.

21 MR. BROOKS: I was asking him to explain
22 what is in the Japanese document, which I do not know
23 and the Court does not know and apparently the prosecu-
24 tion does not.

25 THE PRESIDENT: If the English of this exhibit

1 you are re-examining on is faulty, we should have it
2 corrected at once and postpone your redirect examina-
3 tion until we have the corrected version. I see no
4 other course.

5 MR. BROOKS: We can do that, your Honor;
6 however, I believe I would be satisfied with the
7 answer to this question and not have to recall him
8 later on, to save time.

9 THE PRESIDENT: The question is objected to
10 and we must deal with it on its merits.

11 MR. BROOKS: Possibly I can withdraw the
12 question and reframe it in a manner that would not be
13 objectionable.

14 Q What control, if any, can you point out of
15 civil administration as set out in this document?

16 A What is written here in this document pertains
17 to Gunseibu, or a Military Administration Department,
18 an organization which is identical with what was in
19 our country the Ministry of War and the Ministry of
20 the Navy. And, therefore, such an agency was not
21 permitted to engage in any form of civil administration;
22 and, therefore, it is only natural that anything per-
23 taining to civil administration would not be included
24 here. And as a matter of fact, there is nothing per-
25 taining to civil administration in this document.

1 THE PRESIDENT: We will recess for fifteen
2 minutes.

3 (Whereupon, at 1045, a recess was
4 taken until 1100, after which the proceedings
5 were resumed as follows:)

6 - - -

7 MARSHAL OF THE COURT: The International
8 Military Tribunal for the Far East is now resumed.

9 THE PRESIDENT: Captain Brooks.

10 BY MR. BROOKS (Continued):

11 Q Have you finished your answer, Witness, on
12 this exhibit?

13 A Yes.

14 MR. BROOKS: May the witness be shown exhibit
15 3379-A.

16 (Whereupon, a document was handed
17 to the witness.)

18 Q This appears to be a draft of an outline of
19 general measures regarding customs duties in Manchukuo,
20 dated December 12, 1932. What, if anything, do you
21 have to say about this exhibit?

22 A No, I have nothing to say.

23 Q Did you see it?

24 (The witness examined the document.)

25 Q (Continuing) May I ask now, Mr. Witness, was

1 this draft or plan sent by you, as Chief of Staff of
2 the Kwantung Army? Does it represent your opinion,
3 or was it sent as part of your administrative duties?

4 A This was an opinion set forth by one SUZUKI,
5 Boku, a financial and economic adviser attached to
6 the Kwantung Army Headquarters, to the -- and sub-
7 mitted to the commanding general of the Kwantung Army.
8 This plan was adopted by the commanding general of
9 the Kwantung Army and was sent in my name to the
10 Central Army Authorities.

11 Q Had there been any previous study by the
12 Central Army Authorities on this matter, and had
13 they requested your observations from the field?
14 When I say "your observations," I mean the observ-
15 ations, of course, of the Kwantung Army.

16 A With regard to the customs question of Man-
17 chukuo, nothing had been decided upon by the Central
18 Authorities at the time I left Tokyo to assume my
19 post as Chief of Staff of the Kwantung Army in August,
20 1932, and the reason was that relations with the
21 Third Powers were very delicate at that time.
22 Generally, that was the reason.

23 I have no recollection that any requests
24 were made by the Central Authorities in connection
25 with this question following my assumption of office

1 in the Kwantung Army.

2 Q I direct your attention to the document, at
3 the top of page 3 of the English text, under the
4 words "Top Secret /stamp/," there is stated, "Now
5 in study." Can you explain what that means?

6 A Yes.

7 Q Do so, please.

8 A As I have said, the Third Power relations
9 in connection with the customs question was delicate
10 at the time, and, for instance, if the commanding
11 general of the Kwantung Army accepted opinions sub-
12 mitted to him by the adviser and formulated a plan
13 of this sort, even then there was considerable room
14 for further study, because it was not known whether
15 such a plan could immediately be put into practice.
16

17 Q Do you know whether this plan was ever actually
18 put in practice?

19 A As I have said before, I do not recall.

20 MR. BROOKS: I ask that the witness be shown
21 exhibit 3380-A.

22 (Whereupon, a document was handed
23 to the witness.)

24 Q What, if anything, do you have to say about
25 this document?

A There is nothing special to mention.

1 Q Was it sent by you, as Chief of Staff of the
Kwantung Army, as one of your administrative duties?

2 A This document, as I said yesterday, was some-
3 what in the form of a reply to an inquiry made by the
4 Central Authorities of the Kwantung Army in connection
5 with various laws and regulations, and this reply,
6 supposed to be made by the commanding general of the
7 Kwantung Army, was sent in the name of the Chief of
8 Staff of the Kwantung Army.

9 Q That was the customary procedure, to send
10 from the Chief of Staff to the Vice War Minister, was
11 it not?

12 A Yes, that is so.

13 Q And, it was also customary procedure, when
14 a direct communication with the War Minister, to send
15 it direct from the commanding general, is that true,
16 depending upon the importance of the communication?
17

18 A Yes, as you say.

19 MR. BROCKS: May the witness see exhibit
20 3381-A.

21 (Whereupon, a document was handed
22 to the witness.)

23 Q This relates to the funds of the Kwantung
24 Army. These funds were for the use of the army, were
25 they not?

A Yes, as you say.

1 Q And, were handled in the same manner as you
2 have testified to in relation to other funds sent on
3 another occasion?

4 A Such procedures were taken by the Central
5 Authorities when funds of this kind were sent to
6 the Kwantung Army.
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1 Q These funds were used for the same purposes
2 and under the same procedure as described in your
3 affidavit, were they not, in relation to the amounts
4 that had been sent at other periods?

5 A Yes.

6 MR. BROOKS: Now, may the witness be shown
7 exhibit 3382.

8 I believe that the Language Section has
9 that, your Honor, at this time. I had asked him to
10 make a check on the translators' notes that appeared
11 on there, which I understand do not appear in the
12 original, and ask for their interpretation of those
13 Japanese phrases.

14 Is the Language Board ready to report on
15 that at this time?

16 I understand they are not.

17 THE PRESIDENT: That is the accused's speech
18 on the 17th of February, 1940, in the Diet -- the
19 Budget Committee.

20 MR. BROOKS: IPS document No. 3030-N, exhibit
21 3382. The questions which I wish to submit to the
22 Language Board are interpretations of Hakko-Ichiu,
23 Tengyo-Kaiko and Rikigo-Kento. Translators' notes
24 appearing in this document I think should be stricken
25 from the document because they do not appear in the

1 original form, and if the Court wants it translated,
2 it should be done by the Court.

3 THE PRESIDENT: Any dispute will be settled
4 by the Language Arbitration Board.

5 MR. BROOKS: I wish the Court would consider
6 my application to strike the two translators' notes
7 that appear there as not being proper.

8 BY MR. BROOKS (Continued):

9 Q Now, Mr. Witness, do you have anything to
10 say in relation to this exhibit, 3382?

11 A I have not.

12 Q The movements you have discussed in this
13 speech were for development. Did they consider
14 economic development or economic intercourse between
15 the nations alone?

16 A No, that was not included, but the meaning
17 was peaceful economic development primarily.

18 Q Then, your statement was directed, rather,
19 at the population problem, was it not?

20 A The population problem was secondary. The
21 primary question was that of economic expansion or
22 development.

23 Q And why was it necessary for this economic
24 expansion?

25 A Of course, the question is related to the

1 population question, but Japan could not, by the
2 produce of her own territory, her land -- could not
3 maintain self-sufficiency. The principal method for
4 Japan to survive was to import raw materials from
5 outside sources, to process them and to increase the
6 manufacturing capacity of such materials; and by
7 exporting these products of Japanese industry, to
8 procure by trade all the necessities of life in
9 Japan, both raw material and otherwise.

10 Q Could she import such materials at this
11 time without restriction?

12 A Yes.

13 Q Were there any countries at this time with
14 which she could not do business?

15 A February 17, 1940, happened to be the time
16 when the YONAI Cabinet was in office. At the time
17 of the previous HIRANUMA Cabinet -- two cabinets
18 previous -- that is to say, at the time of the HIRANUMA
19 Cabinet, I recall that various restrictions were placed,
20 economically and on trade by the United States.

21 Q Then, there were some restrictions that were
22 causing Japan to seek products from new sources, is
23 that not true?

24 A Among all the raw materials of which there
25 was a severe shortage in Japan, and what was most the

1 center of discussion in connection with raw materials
2 necessary for defense, was the question concerning
3 oil.

4 Q Was that for military purposes alone?

5 A No.

6 Q Was the military percentage of such oil
7 needed, a minor amount or a maximum amount of the
8 total needs?

9 A In the Navy I think there was a considerable
10 need, but I have no knowledge of the figures.

11 Q At this time there was much discussion pro
12 and con among the ministers of State and representatives
13 as to how to meet this problem, was there not?

14 A The Members of Parliament, as I have indicated,
15 have, based on the view to which I already referred,
16 made many repeated demands upon the Government to
17 bend more efforts so as to enable Japan to secure --
18 to obtain necessary raw materials from South Pacific
19 areas through trade.
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1 Q Was a decision reached at this time on how to
2 meet this problem, and if so, what was it?

3 THE INTERPRETER: To the witness' previous
4 reply there should be added, after "necessary raw
5 materials," "chiefly petroleum."

6 A There is nothing special -- no special steps
7 were taken by the YONAI Cabinet, but in my recollection
8 representatives in the field, that is to say, consul
9 generals, were conducting negotiations with the author-
10 ities -- competent authorities of the other countries.

11 MR. BROOKS: I refer the Court to paragraph 20
12 of exhibit 3375, the witness' affidavit, as to the Lake
13 Khassan incident, and to page 22,751 of the record as
14 to the witness TANAKA's statement.

15 I desire to read the question and answer which
16 are set forth, that appear at page 22,751, and ask a
17 question on it.

18 Question to TANAKA, the witness: "And what
19 commanding general of the army issued the order about
20 the concentration of troops, KOISO or NAKAMURA?"

21 Q The NAKAMURA referred to there, General KOISO,
22 was the man that succeeded you on the 15th of July, 1938,
23 was he not?
24

25 A Yes.

Q TANAKA's answer: "I did not see any of these

1 documents directly or myself at the divisional head-
2 quarters, but judging from common military knowledge
3 I would say that the order for concentration was natural-
4 ly given by Commander of the Army KOISO. I should like
5 to add that this was not an order for attack; it was an
6 order to concentrate."

7 Now, that is the man that you referred to in
8 paragraph 20 of your affidavit, is it not, General
9 KOISO?

10 A Yes, that is so.

11 Q Now, in relation to paragraph 22 of your
12 affidavit, about your meeting with Ott, do you know
13 whether Ott knew of your opposition in the past to the
14 Tripartite Pact?

15 A Well, I do not know whether Ambassador Ott
16 actually knew or not that I was opposed, but in view of
17 the fact that Ott had many frequent social contacts
18 with army officers, I would judge that he might have
19 been informed by these army officers of my opposition,
20 and knew what my feelings were on the subject, but this
21 is only my own imagination based on the fact that he
22 had close intercourse with army officers.

23 Q In your affidavit you stated that you thought
24 he was confusing you as Overseas Minister with the
25 Minister for Foreign Affairs. Now, thinking back on

1 this, might he not also have had this knowledge and
2 been trying to influence your decisions for the future?
3 I mean, of course, knowledge of your opposition to the
4 Tripartite Pact.

5 COLONEL FIXEL: The prosecution objects to the
6 question on the ground that it is leading, and also is
7 highly speculative. The answer could not be based on
8 any information that the witness would have.

9 MR. BROOKS: I will withdraw that question and
10 ask it this way:

11 Q Was there any action or statement by Ott that
12 now, thinking back on it, would lead you to think that
13 he might be trying to influence your decisions in the
14 future?

15 A When at these interviews with -- at this inter-
16 view with Ott at least I considered that he, being an
17 ambassador of a foreign power, would know what the real
18 nature and character of the Ministry of Overseas Affairs
19 was. Although I am not familiar with the English language
20 the ministry over which I presided was called, in Eng-
21 lish, the Ministry for Overseas Affairs, and probably it
22 is because of some connotation in that title that he
23 asked questions of me which he should, if he knew the
24 distinction properly, address to the Foreign Minister.
25

According to Ott's telegram, it is represented

1 that I, KOISO, invited him, but the fact was the other
2 way around; he invited or he initiated this interview
3 with me, and I entertained doubts to the reason why he
4 would invite me to an interview.

5 At that time, that is to say at the time of my
6 interview with Ott, that was all that I thought, and
7 entertained some doubts as to the purpose of his wanting
8 to meet me, but after this Tribunal opened there was
9 some telegram offered in evidence, sent by Ribbentrop
10 to Ott, to the effect that various moves should be taken
11 in Japan to build up a political situation -- a political
12 atmosphere in Japan as would desire -- create the desire
13 among the Japanese to enter into an alliance with
14 Germany, it came to -- it occurred to my mind that per-
15 haps the teletraphic instruction from Ribbentrop to Ott
16 included me as one of the targets to be utilized for the
17 German purpose.

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1 Q Now, Mr. Witness, in paragraph 25 you describe the action taken in relation to French Indo-
2 China. Was this action taken after approval from
3 the French authorities under an agreement with the
4 Vichy Government?

5 A The pact of common defense was entered into
6 between Japan and French Indo-China, the latter being
7 represented by Governor General De Coux, who was
8 acting under the directions of the Vichy Government.
9 When I assumed the prime Ministership it appeared that
10 De Coux had entered into De Gaulle's camp, and in
11 connection with the effectuation of the pact for
12 common defense between Japan and French Indo-China,
13 the French Indo-China authorities were showing a very
14 non-cooperative attitude. I knew that this was the
15 situation when I assumed the Prime Ministership, and
16 at that time, in the light of the changing military
17 situation, the decision of the Supreme Council for the
18 consideration of war, of February 1, was taken.

19
20 Q Now, as to this decision of the Supreme Command,
21 that was within their competence and you had no connec-
22 tion therewith or responsibility therefor, is that
23 correct?

24 A Being one of the composite members of the
25 Supreme Council for the consideration of war. I con-

1 sider that any decision made by the Council -- I
2 consider that I would be one of those responsible for
3 any decision reached by that Council.

4 Q I am talking of the move of the Supreme Com-
5 mand for taking certain measures of security in this
6 area. You would have no connection or responsibility
7 for such security measures as they might see fit to
8 take, as it would be in their competence entirely as
9 a military operation, is that not correct?

10 A I have no responsibilities in connection with
11 High Command matters taken to carry out any policy on
12 the spot.

13 Q Now, in relation to these dummy bombs and
14 fireworks of the March Incident, how large was this
15 package? Did you ever see it?

16 A I have never seen the package, but from what
17 I have heard the amount was so small -- the amount was
18 such that it could be carried in one suitcase and not
19 more than two suitcases. My explanations seem to have
20 been insufficient, but I was speaking of space suffic-
21 ient to hold 300 shots.

22 Q You heard a witness testify here as to the
23 size of the package as being handed from the train to
24 one of OKAWA's followers. In describing it he said
25 a man could easily carry that package of 300 bombs.

1 That was a correct statement, was it not?

2 A Yes, that is so, but from what I have read
3 it wasn't a train but a city tram car.

4 THE INTERPRETER: Correction: From what I
5 have heard it wasn't a train but a city tram car.

6 Q I will take your correction on that: I am not
7 sure myself.

8 Anyway, it would not take an army truck to
9 move these paper bombs?

10 A No, there was absolutely no such necessity.

11 Q And they were not of such a nature that they
12 would blow up the Diet building or cause any destruc-
13 tion of that nature, were they?

14 A It had no such power.

15 Q Now, in answer to one of Mr. Logan's ques-
16 tions you said -- I think the last question -- that you
17 could not deny that. Did you mean by this answer that
18 you could affirm that such action took place?
19

20 A That I said was that I could not deny the fact
21 that KIDO has heard from HARADA the alleged facts con-
22 tained in court exhibit 179-F, an entry from KIDO's
23 diary. That is because I don't know the source of
24 KIDO's information.

25 Q In other words, you don't know whether that
was true or not, but not having any knowledge you can't

1 either affirm or deny? Is that the effect of your
2 answer?

3 A Yes.

4 Q Now, there was one other question Mr. Logan
5 asked you that you started to make an explanation
6 as to the reason for your statement. Do you care to
7 continue any more on that?

8 MR. LOGAN: If the Tribunal please, when this
9 question was raised there was no issue as to the con-
10 tents of that diary entry. It was not raised in the
11 affidavit originally; it was injected by the witness
12 on cross-examination. It was a voluntary statement
13 as to the correctness or incorrectness of whether or not
14 there was such a statement made by KIDO in his diary.
15 But the contents of it have never been in issue.

16 THE PRESIDENT: If necessary we will hear you
17 after lunch, Captain Brooks.

18 (Whereupon, at 1200, a recess was
19 taken.)
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AFTERNOON SESSION

1
2 The Tribunal met, pursuant to recess, at 1330.

3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 THE PRESIDENT: Captain Brooks.
6

7 - - -

8 K U N I A K I K O I S O, an accused, resumed the
9 stand and testified through Japanese interpreters
10 as follows:

11 MR. BROOKS: In regard to the question we
12 were arguing just before adjournment, I wish to with-
13 draw the question we were arguing as I have examined
14 the record of proceedings for this morning's session
15 and I find that the witness has already answered that
16 he denied the facts set forth in exhibit 179-F as to
17 such a meeting or plan, which I had overlooked.
18 However, I do desire to call the Court's attention
19 that a substantial correction of the translations of
20 exhibit 179-F and page 1927 of the record was made by
21 the Language Arbitration Board at court record, page
22 21,340.
23

24 I understand that Mr. Caudle, SHIRATORI's
25 counsel, wishes to make a statement in relation to the
questions of this morning.

THE PRESIDENT: Mr. Caudle.

1 MR. CAUDLE: May it please the Tribunal,
2 I have gone over the questions submitted to me by
3 Mr. SHIRATORI to be asked the witness, General KOISO.
4 At the lunch hour I discussed the questions with
5 Mr. SHIRATORI and then we both decided they were not
6 pertinent to the issue, and so I do not desire to
7 question the witness.
8

9 MR. BROOKS: Mr. Witness, are there any
10 other corrections or matters which you have not fully
11 explained which you desire to cover at this time?

12 THE WITNESS: There are none.

13 MR. BROOKS: Does the Court or prosecution
14 care for any other questions?

15 COLONEL FIXEL: The prosecution has no further
16 questions.

17 MR. BROOKS: Does the Court have any ques-
18 tions, your Honor?

19 THE PRESIDENT: No.

20 MR. BROOKS: May the witness be excused --
21 returned to the dock?

22 THE PRESIDENT: He will resume his place in
23 the dock.
24

25 (Whereupon, the witness was excused.)

MR. BROOKS: If the Tribunal please, we will

1 now call as our next witness, TOKUGAWA, Yoshichika.

2 - - -

3 Y O S H I C H I K A T O K U G A W A, called as a
4 witness on behalf of the defense, being first
5 duly sworn, testified through Japanese inter-
6 preters as follows:

7 MR. BROOKS: This witness has testified
8 previously, your Honor.

9 THE PRESIDENT: Yes, so I thought. You are
10 still on your former oath although you have taken a
11 fresh one.

12 DIRECT EXAMINATION

13 BY MR. BROOKS:

14 Q Please state your name and address.

15 A My name is TOKUGAWA, Yoshichika. My present
16 place of residence is Mejiro-machi, Toshima-ku, Tokyo.

17 MR. BROOKS: I ask that the witness be shown
18 defense document 2043.

19 Q Is this your affidavit and have you signed it?

20 A This is my affidavit and I have signed it.

21 Q Are the contents thereof true and correct?

22 A The contents are true and correct.

23 MR. BROOKS: I now offer in evidence defense
24 document 2043.

25 THE PRESIDENT: Mr. Sutton.

1 MR. SUTTON: May it please the Tribunal,
2 the prosecution objects to this affidavit on the
3 ground that it is repetitive. This witness, when he
4 testified before the Tribunal, was cross-examined
5 at length on the same subjects that appear in the
6 present affidavit. His cross-examination is found
7 at pages 1443 to 1449 of the record.

8 If the Tribunal desires, counsel can point
9 out to the Tribunal the specific subjects that are
10 contained in the present affidavit and where they
11 appear in the original cross-examination.

12 MR. BROOKS: This affidavit is offered to
13 clarify certain points regarding KOISO and the March
14 Incident and to lay the basis for a motion to strike
15 exhibit 158, court record page 1440. In the certifi-
16 cate to exhibit 158 it is stated by the prosecution's
17 witness, Jerry Sumiyoshi, that exhibit 158 was read
18 to this witness in Japanese. On court record page
19 1440, lines 13 and 14, in answer to the prosecutor's
20 question, this witness stated that this affidavit was
21 not read to him in Japanese. Again on page 1443 of
22 the record on cross-examination the witness again
23 stated that he had not read the Japanese text of the
24 affidavit and goes on to state on line 22 of that page
25 ~~that he could not tell whether the translation was~~

1 correct or incorrect because he didn't hear it in
2 Japanese, thereby impeaching the prosecution's own
3 witness to the certificate and making said exhibit
4 valueless, for, as shown by the cross-examination at
5 that time and as further clarified in his present
6 affidavit, defense document 2043, the statements made
7 in exhibit 158 were not true and correct and this
8 affidavit clarifies all these points for he has had
9 the opportunity to read and compare both the Japanese
10 and English texts.

11 Therefore, on the basis of the present
12 affidavit we will ask the Court to consider a motion
13 to strike exhibit 158 and to strike the matter
14 relating thereto as set out beginning on court record
15 page 1440. The presentation of this affidavit will
16 save considerable time in examining over these matters
17 and it has been thoroughly understood as the affidavit
18 will speak for itself if the Court will examine the
19 first few paragraphs.

20 THE PRESIDENT: His examination is rather
21 peculiar. This appears at page 1443:

22 "Q Mr. Witness, you have just said that you
23 have not read the Japanese text of this affidavit, is
24 that correct?

25 "A I can't hear you very well. Please

repeat it.

1 "Q You have said that you did not read
2 the Japanese text of the affidavit, is that true?

3 A Yes, it is. Yes, it is true. I didn't
4 hear it in Japanese."

5 MR. BROOKS: If your Honor please, also on
6 page 1440 of the record under the direct examination
7 of Mr. Helm, the question: "Was this affidavit read
8 to you in Japanese?" "No, it was not."

9 MR. SUTTON: May I call the Court's
10 attention--

11 MR. BROOKS: And that in the face of the
12 certificate attached to exhibit 158 which impeaches
13 their own witness.
14

15 Since the original of this was in English,
16 which the witness thought he understood, why, I say,
17 that since it is apparent from the cross-examination
18 set out in this affidavit that I am offering now, I
19 think this matter can be cleared up and that previous
20 errors and misstatements can be cleared up so that no
21 damage will be done and save a lot of time. My
22 motion to strike that, of course, goes since the
23 affidavit read to the Tribunal is under a false
24 certificate as their own witness has testified,
25 their own affiant, on direct examination and

cross-examination.

1 THE PRESIDENT: He said he read it in
2 English and that the statements in English were
3 true. What more do we want? And he was cross-
4 examined fully.

5 MR. BROOKS: That is explained in the
6 present affidavit being offered, your Honor.

7 THE PRESIDENT: Anyway, we have heard the
8 Japanese translation of what was read in court in
9 English, as I am reminded.

10 MR. BROOKS: And that explains his answers
11 on cross-examination which are diametrically opposed
12 to everything in the other affidavit, your Honor, and
13 in the affidavit I am offering--

14 THE PRESIDENT: You can rely on that cross-
15 examination. There is really no occasion for a fresh
16 affidavit. No Member of the Court thinks so, at all
17 events.

18 MR. BROOKS: If the Court please, I would
19 like to be heard further on that because of the
20 reason of an objection being made at the time that
21 we could not -- the Japanese counsel who was cross-
22 examining could not understand what questions to
23 ask the witness because he couldn't read the English
24 and I was foreclosed from examining because at that
25

1 time the rule was that only one counsel could examine.

2 THE PRESIDENT: I am afraid we are all
3 against you, Captain Brooks. The objection is upheld
4 and the document rejected.

5 MR. BROOKS: May I further examine this
6 witness then, your Honor, as to the falsity of the
7 affidavit which you have on record, which does not
8 have a proper certificate.

9 THE PRESIDENT: There is no finding on the
10 value of the certificate by the Tribunal, which alone
11 makes findings. The grounds for excluding the further
12 affidavit, or the affidavit, are also the grounds for
13 not hearing you further.
14

15 MR. BROOKS: I ask the Court then to consider
16 a motion to strike the exhibit, 158, since we have
17 the witness on the stand, who says it is not his
18 affidavit and that it is not correct, and I am willing
19 to prove it.

20 THE PRESIDENT: The application is refused.

21 MR. BROOKS: I understand you have no further
22 use for this witness then?

23 THE PRESIDENT: None. The witness is released
24 on the usual terms.

25 (Whereupon, the witness was excused.)

MR. BROOKS: I would like to have for the

1 record, your Honor, defense document 2043 marked
2 for identification only to show a proffer of proof
3 and an attempt to disprove a false affidavit.

4 THE PRESIDENT: Provision has already been
5 made to list rejected documents and for stating the
6 reasons for such rejection and for including them in
7 the record.

8 MR. BROOKS: I am applying under that
9 provision.

10 THE PRESIDENT: It operates automatically.

11 MR. BROOKS: I would like this one given an
12 exhibit number, your Honor, because I intend to
13 argue this later, for identification.

14 THE PRESIDENT: You can have anything marked
15 for identification.

16 Mark it for identification.

17 CLERK OF THE COURT: Defense document 2043
18 will receive exhibit No. 3384 for identification only.

19 (Whereupon, the document above
20 referred to was marked defense exhibit
21 No. 3384 for identification only.)

22 MR. BROOKS: We now offer for identification
23 only the official regulations dealing with the organi-
24 zation of the War Ministry from 1920 to 1935.

25 THE PRESIDENT: There is "Exhibit 74" noted

1 against this, Captain Brooks.

2 MR. BROOKS: That is a little further on,
3 your Honor.

4 CLERK OF THE COURT: "War Ministry General
5 Affairs Regulations" will receive exhibit No. 3385
6 for identification only.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 3385 for identification only.)

10 MR. BROOKS: Defense document 2562, which is
11 an excerpt therefrom, is offered in evidence.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Defense document 2562
14 will receive exhibit No. 3385-A.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3385-A and received in evidence.)
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1 MR. BROOKS: This document is offered for the
2 purpose of showing that the Defendant KOISO was not
3 responsible for the control of the Army budget while
4 Chief of the Military Affairs Bureau but that the Chief
5 of the Intendance Bureau was responsible for control
6 of the budget during this period of time and that it was
7 only after later revisions that the regulations were
8 amended and revised and a new clause inserted making
9 control of the general budget part of the duties of the
10 Military Affairs Bureau. This may be seen in exhibit 74
11 which is a 1942 revision and by reference to the
12 witness' testimony especially at record page 27717,
13 line 17 of the record, and shows that the defendant
14 KOISO could not have controlled the expenditures relat-
15 ing to the Army expenses of the Manchurian Incident
16 regardless of whether they had Imperial Sanction or not.

17 This excerpt shows the duties of the Chief of
18 the Military Affairs Bureau and will not be read into
19 evidence but is offered to show that the Chief of the
20 Military Affairs Bureau did not have control of the
21 budget but that it was under the control of the Chief of
22 the Intendance Bureau which may be ascertained by the
23 Tribunal's examination. Attention is called to Article
24 23, Sections 4, 5 and 6, and Article 24, Section 3,
25 which bears out the above statement.

HIYOSHI

DIRECT

32,486

1 THE PRESIDENT: You don't propose to read it
2 after that explanation?

3 MR. BROOKS: No, sir. We next call the witness
4 HIYOSHI, Takohiko.

5 - - -

6
7 TAKEHIKO HIYOSHI, called as a witness on
8 behalf of the defense, being first duly sworn,
9 testified through Japanese interpreters as follows:

10 DIRECT EXAMINATION

11 BY MR. BROOKS:

12 Q What is your name and address?

13 A My name is HIYOSHI, Takehiko. My address is
14 1835, 2 Chome, Nogata-cho, Nakano-ku, Tokyo.

15 MR. BROOKS: I ask that the witness be shown
16 defense document 2560 (Revised).

17 (Whereupon, a document was handed to
18 the witness.)

19 Q Is this your affidavit and did you sign it?

20 A This is my affidavit and I have signed it.

21 Q Is it true and correct?

22 A Yes.

23
24 MR. BROOKS: We now offer in evidence defense
25 document 2560.

THE PRESIDENT: Mr. Sutton.

1 MR. SUTTON: May it please the Tribunal, the
2 prosecution objects to the last sentence of the first
3 paragraph on page 3, being lines 4 and 5 on page 3,
4 beginning with the words, "the expenditures". Objection
5 is also made to the last sentence in the next to the
6 last paragraph on page 3, beginning with the word "there-
7 fore", and to the entire last paragraph of the affidavit
8 on the grounds that these are statements of opinion and
9 conclusions.

10 MR. BROOKS: If your Honor please --

11 THE PRESIDENT: KOISO is allowed to say some-
12 thing like that.

13 MR. BROOKS: If your Honor please --

14 THE PRESIDENT: It is rather petty. Still I
15 wouldn't say they weren't exactly sound objections.

16 MR. BROOKS: I will agree to the first correc-
17 tion of the last sentence of the first paragraph of
18 page 3, "The expenditures of the funds were thus made
19 justly." That should be deleted. I overlooked it.

20 But as this witness served under General KOISO,
21 then Chief of Staff of the Kwantung Army, as an Intendance
22 officer attached to the Control Department, Headquarters,
23 Kwantung Army, and handled the disbursement of secret
24 funds, this witness should be able to clarify the uses
25 made of its secret funds by the Kwantung Army and

1 particularly of the 1,970,000 yen sent from the Vice-
2 Minister of War to the Chief of Staff of the Kwantung
3 Army on the 27th of December, 1933. And because of
4 his position he should have peculiar knowledge, his
5 being in control of the expenditures, whether such could
6 be appropriated for private use or for personal benefit
7 of any superior officer or anyone else or whether such
8 actually took place, and I say that these statements
9 are statements of fact rather than opinion due to his
10 peculiar knowledge and could be readily examined into
11 on cross-examination.

12 The first sentence I do agree should be dropped.

13 THE PRESIDENT: Well, the document is admitted
14 on the usual terms except as to the sentence you have
15 agreed not to read.

16 MR. BROOKS: Thank you.

17 CLERK OF THE COURT: Defense document 2560 will
18 receive exhibit No. 3386.

19 (Whereupon, the document above
20 referred to was marked defense exhibit No.
21 3386 and received in evidence.)

22 MR. BROOKS: I will now read from defense docu-
23 ment 2560, exhibit 3386, omitting the formal parts:

24 "I graduated from the Army Intendance school
25 in April, 1919. In December of that year I was

1 commissioned an Intendance 2nd Lieutenant.

2 "In August 1933, when I was a Captain, I was
3 appointed paymaster attached to the Administrative
4 Department of the Kwantung Army Headquarters.

5 "In August 1935 I was transferred to the
6 Intendance Department of the Kwantung Army Headquarters.

7 "Later in August 1943 I was promoted to the
8 rank of Intendance Colonel and remained so until the
9 termination of the war.

10 "During the period between August 1933 and
11 August 1935 I was paymaster of the Administrative
12 Department of the Kwantung Army Headquarters and had
13 charge of the accounts of the secret service funds of
14 the Kwantung Army by order of the Vice-Chief of Staff
15 and the Senior Adjutant under the supervision of the
16 Chief of the Staff of the Kwantung Army. Therefore I
17 know well how we spent the secret service funds amount-
18 ing to 1,970,000 yen sent from the Vice-Minister of War
19 to the Chief of the Staff of the Kwantung Army on
20 December 27, 1933.

21 "At that time peace and order in Manchuria had
22 not been completely attained as yet so the Kwantung Army
23 made efforts to establish it in accordance with the
24 Japan Manchukuo protocol.

25 "Therefore, the said fund was spent for these

HIYOSHI

DIRECT

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1 purposes: Primarily for gathering information, for
2 propoganda and for purchasing weapons from Chinese
3 Bandits etc., partly spent for supplementing general
4 expenditure, namely, for entertaining and paying wages
5 where necessary in the execution of general business.
6 and it was expended by Army Headquarters, the Division,
7 the Brigade, the Independent Garrison, Kempeitai and the
8 Special Service Office, all of whom were carrying out
9 their duty of establishing peace and order and thus
10 was this spent in assisting them to accomplish their
11 respective duties. Next if we are to add the procedure
12 for application concerning these expenditures, they were
13 as follows:

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1 "As for the apportionments from the Kwantung
2 Army Headquarters, each section of the Staff Department
3 under the command of the Kwantung Army applied in
4 accordance with its own decided plan, for the definite
5 sum desired, and after the applications were in, they
6 were assessed by the Vice-Chief and the Chief of
7 Staff; then the Administrative Office informed the
8 approved sum to the sections concerned.

9 "The units which received their notices in-
10 forming them of their respective apportioned sums out
11 of the secret service funds were able to use them on
12 the responsibility of the commanding officer of each
13 unit. According to regulations, the expenditures were
14 reported through channels to higher units every month.
15 After examining these reports, the Kwantung Army Head-
16 quarters then reported the matter to the War Ministry.

17 "The reports were made with the duplicate
18 copies of the originals and the originals were kept
19 in custody of the units concerned.

20 "As to the whereabouts of the originals and
21 duplicates sent to the War Ministry, I do not know
22 where they are now as I was later transferred to
23 another locality.

24 "Further, the disbursements of secret service
25 funds were strictly regulated by such independent

1 systems as disbursing officers, accounting officers
2 and inspectors of settled accounts. Therefore, it
3 was impossible to spend it for one's private purposes
4 or to make a profit on it because of the system itself.

5 "Under these circumstances, KOISO, Chief of
6 Staff, could never have appropriated any for his own
7 benefit, and these funds were not used in any manner
8 as payment in reward for services of officers of the
9 Japanese Army."

10 I wish also at this time to offer defense
11 document 2661, a certificate of non-availability as
12 to documents referred to therein. And by agreement
13 with the prosecution the following part of the first
14 paragraph may be deleted: "Because they were destroyed
15 by fire or seized by the Allied Forces." And if the
16 documents are found, your Honor, I will see that they
17 are presented.

18
19 THE PRESIDENT: Well, I don't know what the
20 effect of that is, but it is admitted on the usual
21 terms with that deletion.

22 CLERK OF THE COURT: Defense document 2661
23 will receive exhibit No. 3386-A.

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No. 3386-A
and received in evidence.)

1 MR. BROOKS: Now, may the witness see ex-
2 exhibit 3381-A? This is the exhibit that was intro-
3 duced on KOISO's cross-examination referring to a
4 further sum of 3,000,000 yen that was paid at a
5 different period.

6 (Whereupon, a document was handed
7 to the witness.)

8 Q Now, Mr. HIYOSHI, having examined that docu-
9 ment, were these the same kind of funds as mentioned
10 in your affidavit when you are talking about the
11 1,970,000 yen, and were they used for similar purposes
12 and under the same procedure as the funds were used
13 and as you have described in your affidavit?

14 A The funds are the same nature as the one to
15 which I refer in my affidavit.

16 MR. BROOKS: You may cross-examine.

17 MR. SUTTON: May it please the Tribunal, the
18 prosecution does not desire to cross-examine.

19 MR. BROOKS: May the witness be excused on
20 the usual terms?

21 THE PRESIDENT: He is excused accordingly.

22 (Whereupon, the witness was excused.)

23 MR. BROOKS: We will call as our next witness,
24 IWA-KURO, Takeo.
25

1 appears on pages 2 and 3, except the first paragraph
2 thereof.

3 The reference to General TATEKAWA's mission
4 in the second paragraph of Section 3 is, we respect-
5 fully submit, repetitive and belongs in the general
6 phase. The statement in the rest of this section as
7 to Japan's military equipment in 1931 is immaterial,
8 does not prove whether or not Japan was planning ag-
9 gressive war, and if it were pertinent would belong in
10 the general phase. The last four paragraphs of this
11 section make no reference to KOISO.

12 Objection is made to all of Section 4, pages
13 3 and 4 of the affidavit, on the ground that if perti-
14 nent it would belong in the general phase, and it con-
15 tains nothing especially applicable to the defendant
16 KOISO. The attitude of the leaders of the War Minis-
17 try described in the first paragraph of Section 4,
18 what this witness learned from Colonel ANDO's address
19 recited in the second paragraph of Section 4, and what
20 steps this witness took to increase funds for sup-
21 plies, as recited in the last paragraph of Section 4,
22 are, we respectfully submit, quite immaterial.

23 Objection is made to all of Section 5, page
24 4, in which the witness attempts to explain and con-
25 strue exhibit 230.

1 All of Section 7, pages 5, 6 and 7 of the
2 affidavit, are objected to on the ground that this
3 evidence of alleged banditry and steps taken to se-
4 cure peace and order, if proper, would belong in the
5 general phase. In the last paragraph of this sec-
6 tion the witness gives his opinions and conclusions
7 concerning the views of the defendant KOISO, refers
8 to his character, and then negates his discussion
9 with the final statement that, "The Japanese enter-
10 prises showed little activity in establishing them-
11 selves."

12 All of the last paragraph of Section 9 of
13 the affidavit, being that portion of Section 9 which
14 appears on page 8, beginning with the words on the
15 first line of page 8, "who was of the opinion" and con-
16 tinuing to the end of Section 9. The witness purports
17 to give the opinion of the army commander who suc-
18 ceeded KOISO and then his own opinion as to the motive
19 for action taken.

20 We object to the last sentence in Section 10
21 of the affidavit, beginning with the words, "in reply
22 to this" and continuing to the end of the affidavit,
23 on the ground that the letter referred to therein is
24 not produced nor the failure to produce it properly
25 accounted for.

1 Since those portions of the affidavit to
2 which objection is not made throw such little light
3 on the issues before the Tribunal, we respectfully sub-
4 mit that the affidavit should be rejected in toto.

5 MR. BROOKS: If the Court please, I want to
6 first point out the objection of the prosecution
7 that this material, if it does have relevance and
8 probative value, should have been introduced in the
9 general phase and, therefore, should be excluded now,
10 I want to submit that that is not a proper objection
11 since the prosecution has been allowed to reopen
12 their case and have been allowed to put in general
13 evidence against all accused, that that right to pro-
14 duce other evidence should not be denied the defense
15 while it is allowed to the prosecution.
16

17 Now, this witness was a member of the Material
18 Procurement Mobilization Bureau of the War Ministry
19 from March 1928 to August 1932. He was a staff officer
20 of the Kwantung Army in 1932 and 1934 during the same
21 period that General KOISO was, and in February 1937
22 was Chief of the Military Administration Section of
23 the Military Affairs Bureau. He is able to testify
24 as to KOISO on the Manchurian problem, and will show
25 that KOISO was opposed to the formation of the Tri-
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1 As to the objections of the prosecution to
2 paragraph 3, this is in substantiation of the state-
3 ment made by General KOISO himself in his affidavit
4 while in the box, and goes to the problems dealt with
5 by him while holding the official capacity described
6 by him at that time. It further explains the condi-
7 tions and reasons for certain other actions.

8 As to the objection to all of section 4,
9 pages 3 and 4 of the affidavit, this explains defi-
10 nitely the actions taken while the witness and KOISO
11 were involved with handling the Manchurian Incident
12 upon its report. The telegrams referred to therein
13 will be put in evidence in General MINAMI's case in
14 a group because several defendants are relying upon
15 the same telegrams. This statement substantiates
16 KOISO's statement in his affidavit as to the activi-
17 ties and the considerations that they studied before
18 taking any action at the time.

19 As to section 5, page 4, this exhibit 230
20 has been testified to by KOISO and the statement of
21 this witness is in substantiation of the statements
22 made by KOISO, as to a reply being requested, et
23 cetera, and this officer was one of the staff officers
24 serving with KOISO at the time and should know.

25 As to section 7, pages 5, 6, and 7, as to

1 the allegations as to banditry, I wish to bring out
2 by this witness, who was in the office at the time
3 near KOISO and working with him, that such knowledge
4 of such acts affected these public officials, as
5 KOISO has set forth in his affidavit; that reports
6 of banditry had to be dealt with and influenced the
7 decisions at later periods and accounts for some of
8 the action taken and some of the explanations given
9 by KOISO in his affidavit. This especially sub-
10 stantiates KOISO's affidavit on page 6 where it
11 discusses the labor service corps and the way this
12 banditry was dealt with, by buying weapons and
13 returning them to peaceful pursuit.
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1 The general part of the evidence supplements
2 that which is already in evidence to a large extent,
3 and connects and ties in KOISO's case so that he can
4 take advantage of that evidence that has been put in
5 in general phases. The only way we can make use of
6 the evidence in the general phase is in such a manner
7 as this by reference to it of specific parts on speci-
8 fic points, and supplementing it to fit an individual
9 case upon which sometimes other defendants would not be
10 affected at all.

11 As to the last paragraph of section 9 of the
12 affidavit, being the portion appearing on page 8,
13 beginning with the words "...who was of the opinion..."
14 this is proper as this man was a staff officer and
15 knew what the opinion was as it would be discussed in
16 a staff meeting, and it states whose opinion it was
17 and who acted upon it: the Commander of the Kwantung
18 Army.

19 In the last sentence in section 10, beginning
20 with the words "In reply to this..." the letter in
21 that case I do not think is available. We have been
22 making a search for it, your Honor. I do not think it
23 is in process yet. I do not think it has been found.
24 It may be that the Court could properly reject that
25 part; however, as soon as I have completed bringing

1 in the affidavits of non-availability, I would ask
2 later to put this in by way of secondary evidence,
3 and I feel that this could be received at this time,
4 subject to being disregarded if I do not show definitely
5 that it can be produced.

6 That is all I have, your Honor. Thank you.

7 THE PRESIDENT: Mr. Sutton, will you kindly
8 indicate again just what parts you object to, or
9 check what I say.

10 Oh, I have them here. Yes, they are all right.
11 I have mine marked in accordance with this.

12 By a majority, the Court upholds the objections
13 and rejects the document to the extent that it is
14 objected to.

15 MR. BROOKS: I take it that that is all of
16 section 3 of the affidavit which appears on pages 2
17 and 3, except the first paragraph, your Honor.

18 THE PRESIDENT: There is still quite a lot
19 left.

20 MR. BROOKS: And all of section 4, pages 3
21 and 4 of the affidavit; all of section 5 of page 4,
22 and all of section 7, pages 5, 6 and 7; all of
23 section 9.

24 THE PRESIDENT: No; all of the last paragraph.

25 MR. BROOKS: All of the last paragraph of

1 section 9, beginning with the words "...who was of
2 the opinion..."

3 THE PRESIDENT: That is right.

4 MR. BROOKS: And the last sentence in section 10,
5 "In reply..." Is that correct, your Honor?

6 THE PRESIDENT: That is right.

7 Call out the number, and it can be read after
8 the recess.

9 CLERK OF THE COURT: Defense document 2567
10 will receive exhibit No. 3387.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3387 and received in evidence to the
14 extent above mentioned.)

15 THE PRESIDENT: We will recess for fifteen
16 minutes.

17 (Whereupon, at 1445, a recess was
18 taken until 1500, after which the proceedings
19 were resumed as follows:)
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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

MR. BROOKS: I now read defense document
2567, exhibit 3387, omitting the rejected parts.

THE PRESIDENT: Yes.

MR. BROOKS: I also omit the formal parts,
starting:

"In March 1928, I was attached to a section
in the Maintenance Bureau of the War Ministry, and
in August 1932 was transferred to assume the office" --
I think that should be "...on the staff of the
Kwantung Army. After two years in Manchukuo, I
returned and served as member of the General Staff
(Headquarters), and junior secretary in the Manchurian
Affairs Bureau, whereupon in February 1937 was
appointed section chief for War Affairs in Military
Affairs Bureau. Later in 1939, I was dispatched to
the U.S.A. to assist Ambassador NOMURA. Since then
I have taken several posts as regimental commander
in the infantry, and at the time of termination of
war was Chief Staff Officer of the 28th Army at the
Burmese Front.

"2. It was since 1 August 1929 when General
KOISO, then Major General, came to assume his office
as Chief of Maintenance Bureau, I myself serving as

1 his subordinate, that I for the first time became
2 acquainted with him. Later during the General's
3 tenure of office as Chief Staff to the Kwantung
4 Army, I also served therein.

5 "3. As Chief of Maintenance Bureau, (From
6 August 1929 to August 1930), the General was greatly
7 distressed then about the ill-equipment of our army
8 and munition industry, and would repeat that it was
9 more than necessary for Japan to avoid war by all
10 means. General KOISO, being transferred to Bureau
11 Chief for Military Affairs in August 1930, was confronted
12 with the dispute between Japan and China, especially
13 with the strained situation in connection with
14 Manchuria."

15 I now skip to page 5, ~~rather~~ paragraph 6:

16 "6. I shall state next as to the condition
17 of peace and order in Manchukuo at the time of my
18 assumption of post in the Kwantung Army. The order
19 was issued, appointing me as member of staff to the
20 Kwantung Army, on 8 August 1932. When I arrived at
21 the Headquarters in the Totaku Building in Mukden
22 on 26 August via Chosen and in company with Army
23 Commander MUTO and Chief of Staff Officer KOISO,
24 the bandits were actively carrying out underhand
25 disturbance movements. Night trains would often be

1 held up, and the situation went far as to our
2 suffering attacks by bandits at the aerodrome
3 outside the walls of Mukden city late in September.

4 "In pursuance to Army Commander MUTO's
5 intention, General KOISO as Chief Staff to the
6 Kwantung Army directed his staff to draft policies
7 for cooperation with Manchukuo along the following
8 lines:

9 "(1) Restoration of public peace and order.

10 "(2) Maintenance of transport and
11 communication.

12 "(3) Development of industry."

13 I now skip to paragraph 8 on page 7:

14 "8. A certain KYOWA Association (T.N. The
15 Association of Harmony) had been organized in
16 Manchukuo, which however tended to lapsing into a
17 political body of a 'one party for one state' char-
18 acter. Pursuant to instructions of Army Commander
19 MUTO, General KOISO advised the president of General
20 Affairs of the Manchukuo Government to the effect
21 that though there was no objection to maintaining it
22 as a cultural body it would be inadvisable to en-
23 courage its growth as a political party. I understand
24 that Army Commander MUTO had also refused the request
25 by the said body to become an advisor."

1 I will not read the remaining two pages
2 of the affidavit, as it is valueless without that
3 part rejected by the Court.

4 I would like the witness to be shown court
5 exhibit 230.

6 (Whereupon, a document was handed
7 to the witness.)

8 BY MR. BROCKS (Continued):

9 Q Have you ever seen this document before?

10 A Yes, I have.

11 Q When and where?

12 A In Manchuria. The time was, I think, in
13 the fall of 1933.

14 Q And what was the circumstance?

15 A When an examination of the contents were
16 made when the document was received.

17 Q Will you tell the Tribunal what this document --
18 I withdraw that.

19
20 Did you receive any request from the Central
21 Army in Tokyo -- Central Army Authorities -- or from
22 any official government department in Tokyo, as to
23 the matter contained in this exhibit?

24 A It is my understanding that this document,
25 which originated in Tokyo and was formulated in Tokyo,
was transmitted to the Kwantung Army to obtain its

1 opinion.

2 Q Where was this draft policy originated in
3 Tokyo; what department?

4 A I think this plan was formulated in the
5 General Staff Headquarters and from there, when the
6 plan had been drawn up, sent to the War Ministry and
7 the War Ministry forwarded it to the Kwantung Army
8 for the purpose of obtaining its opinion.

9 Q This information contained in this Court
10 exhibit 230 was as a result of a study of some agency.
11 Can you state who studied and whose opinions are
12 expressed in this document?

13 A It cannot be definitely known as to who
14 formulated the draft of this plan in Tokyo.

15 Q Just a minute.

16 A Whoever made the plan was received in the
17 field, that is, in Manchuria.

18 Q I am not referring to Tokyo. I will withdraw
19 that question and ask this one: Is there any signif-
20 icance in the exhibit you have before you, in that
21 the same name -- that is dispatched in the name of
22 the Chief of Staff?
23

24 A The name "KOISO, Kuniaki, Chief of Staff"
25 appearing on this document, appears there only in
accordance with regulations governing the handling of

1 documents and does not mean that the name appearing
2 thereon is responsible for the contents of the
3 documents.

4 Q You mean for the origination of the documents.

5 A Not as to who originated or formulated the
6 document, but where the document originated or came
7 from, that is, the name of the office.

8 Q Was this a customary procedure for handling
9 documents -- administrative procedure?

10 A Yes.

11 MR. BROOKS: You may cross-examine.

12 MR. SUTTON: If the Tribunal please, the
13 prosecution does not desire to cross-examine this
14 witness.

15 MR. BROOKS: May the witness be released then?

16 THE PRESIDENT: He is excused on the usual
17 terms.

18 (Whereupon, the witness was excused.)
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KITANO

DIRECT

32,509

1 MR. BROCKS: We call as our next witness
2 KITANO, Kenzo.

3
4 K F N Z O K I T A N O, called as a witness on
5 behalf of the defense, being first duly sworn,
6 testified through Japanese interpreters as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. BROCKS:

10 Q What is your name and present address?

11 A My name is KITANO, Kenzo; my address is
12 No. 29, Goban-cho, City of Hikone, Chiba Prefecture.

13 MR. BROCKS: May the witness be shown
14 defense document 2561.

15 (Whereupon, a document was handed
16 to the witness.)

17 Q Is that your affidavit and have you signed
18 it?

19 A This document was written by me and signed
20 by me.

21 Q Is it true and correct?

22 A I made a mistake in the number of the
23 division -- the division number toward the end of
24 the affidavit.

25 Q Point it out, please.

1 A Where the affidavit reads, "the 20th
2 Division," third line from the end of the affidavit,
3 it should read, "the 19th Division."

4 Q With that correction, is it true and correct?

5 A Yes.

6 MR. BROOKS: I offer into evidence defense
7 document 2561, and, if the Court please, I would
8 like to also offer at the same time defense document
9 2698, a certificate of non-availability of certain
10 documents referred to therein, with the understanding
11 that, by agreement with the prosecution, we will
12 delete the last two lines of the first and second
13 paragraphs of the certificate, defense document 2698.

14 THE PRESIDENT: Admitted, with that deletion,
15 on the usual terms.

16 CLERK OF THE COURT: Defense document 2561
17 will receive exhibit No. 3388.

18 Defense document 2698 will receive exhibit
19 No. 3388-A.

20 (Whereupon, the documents above
21 referred to were marked defense exhibit
22 No. 3388 and defense exhibit No. 3388-A,
23 respectively, and received in evidence.)

24 MR. BROOKS: I will now read defense docu-
25 ment 2561, exhibit No. 3388, omitting the formal

1 parts, commencing with paragraph 2:

2 "2. I held the post of Chief of Staff of
3 the Korean Army as a major-general from early in
4 March, 1938 (the 13th year of Showa) to September,
5 1939 (the 14th year of Showa). The commander of the
6 Army at that time was General KCISO, until July 15,
7 1938 (the 13th year of Showa) when he was succeeded
8 by General WAKAMURA.

9 "3. As for Commander KCISO's intentions
10 and actions prior to the outbreak of the Changkufeng
11 Incident, I will depose as follows:

12 "A. The Commander of the Korean Army in
13 1938 (the 13th year of Showa) had no operational
14 duties but was only charged with the duty of defend-
15 ing Korea. He was not invested with any wartime
16 duties. He was therefore, as it were, a commander
17 of a caretaker army.

18 "As regards the two divisions in Korea, the
19 command of the Army Commander was confined to the
20 defense of Korea and, so far as the duty of wartime
21 operations was concerned, the Chief of the General
22 Staff was directly in charge. At the time of the
23 Changkufeng Incident, the 20th Division was in
24 North China, so the only field division in Korea was
25 the 19th Division.

1 "B. Such being the case, the troops under
2 its command were constantly required to absolutely
3 keep from exciting the Soviet Army. Especially since
4 the China Incident was then in progress, were they
5 warned to be extremely cautious as any dispute out-
6 break with the Soviet Union would be an obstacle in
7 carrying out the policy of the central authorities
8 towards China.

9 "Again the likes of watch-post line of our
10 border guards were laid, within our territory of
11 defense back from the frontier line in many places."

12 I think that should be, "the hikes of watch-
13 post line," I don't know. It doesn't make sense there.

14 "On the occasion of inspections or observ-
15 ations, they were done at the spot of the watch-post
16 line or at the headquarters of units, never going
17 close to the frontier line. Such being the case,
18 it was the principle for all troops from the Army
19 Commander down to do their utmost not to excite the
20 Soviet. Therefore, such an attempt as to invade
21 Soviet territory was quite out of the question and
22 was impossible from the standpoint of military
23 strength.
24

25 "I remember, as a result, I presented the
telegraphic instructions from the Central Authorities

1 to General NAKAMURA, Kotaro, the succeeding Army
2 Commander, who arrived at Seoul on July 17 and asked
3 the new commander for necessary instructions, and
4 measures were made for the troops under his command.

5 "As stated above, Korean Army orders to
6 units of parts of the 19th Division relative to the
7 Soviet-Manchurian frontier dispute were given by
8 General NAKAMURA, the new Army Commander, and had
9 nothing to do with General KOISO."

10 In relation to the matter of the Changkufeng
11 Incident, I would like for the Court to consider the
12 testimony of TANAKA, Ryukichi, at record pages
13 22,742, 22,743, and 22,751, and would submit that
14 the conclusion of the witness, though being practical
15 under the circumstances, was not in accordance with
16 fact.

17 You may cross-examine.

18 MR. SUTTON: No cross-examination.

19 MR. BROOKS: May the witness be released?

20 THE PRESIDENT: He is released on the usual
21 terms.

22 (Whereupon, the witness was excused.)
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MR. BROOKS: If the Tribunal please, on this exhibit 3388, on page 2, under paragraph B, the tenth line from the bottom, I will have to ask the Language arbiter to check the Japanese translation and give us a proper word. He said "likes" and it may be "hikes" or something else.

THE PRESIDENT: It may mean "things such as."

MR. BROOKS: We call as our next witness TOKUGAWA, Yoshitomo.

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Y O S H I T O M O T O K U G A W A, called as a witness on behalf of the defense, being first duly sworn, testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q State your name and address.

A My name is TOKUGAWA, Yoshitomo. My address is No. 41, 4-chome, Mejiro, Toshimaku, Tokyo.

MR. BROOKS: May the witness see defense document 2563, revised?

(Whereupon, a document was handed to the witness.)

Q Is that your affidavit and have you signed it?

1 A Yes.

2 Q Is it true and correct?

3 A Yes, the contents are true and correct.

4 MR. BROOKS: We now offer in evidence
5 defense document 2563.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 2563
8 will receive exhibit No. 3389.

9 ("Whereupon, the document above
10 referred to was marked defense exhibit
11 3389 and received in evidence.)

12 MR. BROOKS: I now read defense document 2563,
13 exhibit No. 3389, omitting the formal parts.

14 "After finishing a middle school course I
15 went over to England to study and stayed there from
16 1931 to 1934.

17 "Since 1935 I have been a part-time employee
18 of the Imperial Museum.

19 "I was on the special staff of the Overseas
20 Ministry from April 1939 till August 1939 and from
21 January 1940 till July of the same year.

22 "And from 1940 I have been a part-time
23 commissioner of the Nyukoen, a relief institution
24 attached to the Ministry of Justice.

25 "I have also been serving in the Foreign

1 A Yes.

2 Q Is it true and correct?

3 A Yes, the contents are true and correct.

4 MR. BROOKS: We now offer in evidence
5 defense document 2563.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 2563
8 will receive exhibit No. 3389.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 3389 and received in evidence.)

12 MR. BROOKS: I now read defense document 2563,
13 exhibit No. 3389, omitting the formal parts.

14 "After finishing a middle school course I
15 went over to England to study and stayed there from
16 1931 to 1934.

17 "Since 1935 I have been a part-time employee
18 of the Imperial Museum.

19 "I was on the special staff of the Overseas
20 Ministry from April 1939 till August 1939 and from
21 January 1940 till July of the same year.

22 "And from 1940 I have been a part-time
23 commissioner of the Nyukoen, a relief institution
24 attached to the Ministry of Justice.

25 "I have also been serving in the Foreign

1 Affairs Bureau of the Japanese Red Cross from 1945
2 until now.

3 "I should like to make a statement concerning
4 the conversation between General KOISO and German
5 Ambassador Mr. Ott.

6 "I had many acquaintances at the embassies
7 and legations of various countries in Japan.

8 "Ambassador Ott was one of my acquaintances
9 and I met him quite often.

10 "I remember that around the middle of June,
11 when I met Ambassador Ott, he requested an appoint-
12 ment to see Overseas Minister KOISO.

13 "Just at that time, as I was on the special
14 staff of the Overseas Ministry, I conveyed his request
15 to Overseas Minister KOISO.

16 "But General KOISO's answer was this: that he
17 himself was not interested in an interview with Am-
18 bassador Ott, but if the latter wished to see him, he
19 should comply.

20 "Therefore, I exerted myself to make arrange-
21 ment for their meeting on the 20th of June of the same
22 year.

23 "However, as it was the first time for them to
24 see each other, their conversation was very short -
25 only about thirty minutes.

1 "I was an interpreter between them, and the
2 Ambassador talked almost all the time explaining his
3 opinion to the Overseas Minister that the conclusion
4 of the Tripartite Pact would be advantageous to Japan,
5 and further, the Ambassador went on that Japan would
6 be able to gain economic advantages in French Indo-
7 China and Netherland East Indies as the result of the
8 conclusion of the Pact. Overseas Minister KOISO listened
9 to the Ambassador in silence for the most part, neither
10 acknowledging nor denying the Ambassador except asking
11 only a few questions."

12 You may examine.

13 MR. SUTTON: No cross-examination.

14 MR. BROOKS: May the witness be released on
15 the usual terms?

16 THE PRESIDENT: He is released on the usual
17 terms.

18 (Thereupon, the witness was excused.)

19 MR. BROOKS: There were some corrections in
20 that, if your Honor please, and they appear on an
21 errata sheet, which I think has been distributed.

22 We will call as our next witness TANAKA,
23 Takeo.
24

25

1 T A K E O T A N A K A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q What is your name and present address?

A My name is TANAKA, Takeo. My present ad-
9 dress is No. 2956 Kichijaji, Musashino City, Tokyo.10 MR. BROOKS: May the witness see defense
11 document 2564?12 ("Thereupon, a document was handed
13 to the witness.)14 This was incorrectly numbered defense docu-
15 ment 2121 in some copies, your Honor, if there is any
16 confusion.17 Q Is this your affidavit and have you signed
18 it?

19 A This is my affidavit.

20 Q Is it true and correct?

21 A Yes, true and correct.

22 MR. BROOKS: We now offer defense document
23 2564 into evidence with the exception of numbered para-
24 graph 7, on page 12, which we feel may come under the
25 Court's ruling against character evidence. We will not
read that.

1 MR. SUTTON: The prosecution objects to this
2 affidavit in its entirety. It contains primarily the
3 conclusions and opinions of this witness and contains
4 statements so involved that their meaning cannot be
5 understood and other alleged statements of fact which
6 could not have been within the purview of the knowledge
7 of this witness. The affidavit is argumentative and
8 repetitive. We desire to especially point out the
9 following objections:

10 In Section 1, pages 2 - 4 of the affidavit,
11 the witness seeks, as stated near the bottom of page 2,
12 to elucidate KOISO's attitude on two questions -- the
13 Tripartite Alliance and southern expansion.

14 In the second paragraph of this section, at the
15 top of page 3, the witness purports to give the private
16 opinion of KOISO.

17 In the third paragraph of section 1, being the
18 second paragraph on page 3, the statement by the wit-
19 ness of the views privately expressed by KOISO to the
20 Premier and the Foreign Minister are statements of facts
21 which could not have been within the knowledge of this
22 witness and this paragraph contains an argument on the
23 views and opinions of KOISO.

24 In section 2 of the affidavit, pages 4 - 6,
25 the witness purports to describe the state of mind of

1 KOISO. This section is written sometimes in the singular
2 and sometimes in the plural. Whether the parts of this
3 section under A and B on pages 5 and 6 are statements of
4 the witness or of KOISO, or quotations from some other
5 source, it is impossible to tell.

6 Division A of Section 2 on page 5 purports to
7 be a quotation of principles, but the source is not
8 given.

9 In the first part of Section 2 on page 4 and
10 in the first paragraph of Division A of Section 2 on
11 page 5, the pronouns "we" and "us" are used; for example,
12 in the eighth line of Section 2 on page 4, "made us
13 feel," in the twelfth line of page 4, "not only were we
14 deeply impressed," in the fourteenth line of page 4,
15 "our ears," and in the first paragraph of Division A of
16 Section 2 on page 5 the following expressions appear:
17 "We are now defeated," and "We have, of course, an eager
18 desire." Near the end of the second paragraph of
19 Division A, Section 2, page 5, the third person "he"
20 is used -- "He felt confident." There is no way of
21 ascertaining to whom these pronouns refer.
22

23 In Division B of Section 2, pages 5 - 6, which
24 begins with quotation marks, the third person "he" is
25 used. It is impossible to tell from whom this is quoted.

Near the end of the first paragraph on page 6

1 of Section 2, the witness purports to give the thoughts,
2 intentions and hopes presumably of KOISO.

3 Section 4, pages 8 - 11, contains opinions and
4 conclusions of the witness and is argumentative. The
5 first paragraph of this section on page 9 purports to
6 be a quotation, but the source is not given. The last
7 two paragraphs of this section at the bottom of page 10
8 and the top of page 11 are especially argumentative.

9 "Section 5 on page 11 is objected to as argu-
10 mentative, repetitive and irrelevant in that the wit-
11 ness purports to give the contents of and tries to ex-
12 plain the meaning of a speech made by KOISO. This
13 speech is set out in full in exhibit 277, record pages
14 3703 - 3717.

15 The last sentence of Section 6 at the bottom
16 of page 11 and the top of page 12 is pure speculation.

17 In Section 7, page 12 --

18 THE PRESIDENT: You need not deal with that.

19 MR. SUTTON: It is respectfully submitted that
20 there is so little of this affidavit which is free from
21 objection that it should be rejected in toto.

22 MR. BROOKS: If I may refer to my notes:

23 The prosecution has not brought out that this
24 witness was the Vice Minister of Overseas Affairs under
25 KOISO, and also served as Chief Secretary of the Cabinet

1 when KOISO was Prime Minister, and his testimony as to
2 KOISO's attitude toward the southern region problem, as
3 to the circumstances surrounding the formation of the
4 KOISO Cabinet, and to the administrative policies of the
5 KOISO Cabinet are from his own knowledge and discussions
6 with the accused. He will testify here to KOISO's
7 efforts to terminate the war and to the circumstances
8 following these efforts, leading to KOISO's resignation.

9 He will testify as to KOISO's authority regard-
10 ing prisoners of war and give evidence showing the lack
11 of responsibility for death and mistreatment of internees
12 and prisoners of war.

13 As to the pronouns to which the prosecution has
14 taken objection, none of these objections can fail to
15 be corrected, if there is any doubt, by proper cross-
16 examination. In reading it, when you take into con-
17 sideration that this witness was a vice-minister and is
18 talking about his superior, the minister, I do not see
19 how there can be any doubt as to who he is talking about
20 when he says "we."

21 Taking the objections up section by section:

22 Section 1, pages 2 and 4 of the affidavit.

23 I think that the vice-minister could well testify on
24 the views of the minister in relation to these matters.
25 If he did not know the views, then he would not be

1 carrying out his proper duties as a vice-minister.

2 THE PRESIDENT: HORINOUCI did that, but per-
3 haps in clearer terms -- Vice-Minister for Foreign
4 Affairs.

5 MR. BROOKS: That may be, your Honor, but in
6 this instance the witness has set out the matters that
7 were discussed at their private conferences, and I have
8 endeavored to lay before the Court the private opinions
9 expressed by the general to his vice-minister on his
10 state of mind at that time, what caused him to act and
11 how he acted.

12 If these questions were apparent here, from
13 which these answers were received, I don't think one
14 of them could be objected to. Being in affidavit form,
15 rather than question and answer form, it does give them
16 a different flavor at times, but I do not think that
17 relevant and probative evidence should be rejected for
18 the want of having the questions clearly understood that
19 could produce the same effect.

20 As to the other sections objected to, I think
21 if the position of this witness and the accused is con-
22 sidered, that alone would answer the objection in that
23 any necessary steps may be taken by way of cross-
24 examination to prevent the Court from being misled.

25 As to the objection to the last sentence of

1 Section 6 at the bottom of page 11 and the top of page
2 12, I agree that that might be speculation. However,
3 it was offered in this affidavit on the strength of the
4 witness' own knowledge that, as vice-minister, as far
5 as he knew, he was ignorant of such conditions.

6 As to Section 5 on his speech in the 85th
7 session of the Diet, it is clear from my examination of
8 the witness, and I thought from this affidavit, that he
9 had discussed this matter with KOISO, knew the contents
10 of the speech, and was competent to testify thereabout.

11 I have no further answers.

12 THE PRESIDENT: Well, you agree to strike out
13 two passages at the end of the affidavit. As to the
14 balance, we seem to think it is a case of reject all or
15 admit all. Here and there there are statements which
16 we could hardly accept. Any statement of opinion must
17 be rejected. He is trying to tell us, apparently, the
18 attitude of the accused.

19 MR. BROCKS: That was the purpose, your Honor.

20 THE PRESIDENT: With some hesitation the majority
21 have decided to accept the affidavit. We sincerely
22 hope there will not be many more of these affidavits,
23 because they could be expressed clearly so far as they
24 could be admitted.

25 Except the parts agreed to by Captain Brooks

1 not to be pressed, the document is admitted on the
2 usual terms. It may be read in the morning.

3 We will adjourn until half-past nine tomorrow
4 morning.

5 (Whereupon, at 1600, an adjourn-
6 ment was taken until Thursday, 6 November
7 1947, at 0930.)

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6th Nov. 44.

Letter of 14th Dec. 44.

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Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2564	3390		Affidavit of TANAKA, Takeo		32528
2213	3391		Affidavit of F. S. G. Piggott, Major-General, Military Attache to the British Embassy, Tokyo		32546
	3384-A		Letter dated 14 July 1947 addressed to the President of the International Military Tribunal for the Far East re Correction of Exhibit No. 158 (Record Pages 1441 to 1443)		32551
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6 NOVEMBER 1947

I N D E X

of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2714	3396		Affidavit of NISHIJIMA, Takeshi		32609
2715	3397		Instructions distributed among the entire Central China Expeditionary Forces on 18 December 1937 by MATSUI, Commander of the Central China Expeditionary Forces		32616
2764	3397-A		Certificate of non-availability of original of the above-mentioned documents		32616
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2626	3399		Affidavit of IINUMA, Mamoru		32647

Thursday, 6 November 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE R. B. PAL, Member
from India, not sitting from 0930 to 1600; HONORABLE
JUSTICE E. H. NORTHCROFT, Member from the Dominion of
New Zealand, not sitting from 1330 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IITFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All of the accused are pre-
4 sent except MATSUI and OSHIMA, who are represented by
5 counsel. The prison surgeon at Sugamo certifies that
6 MATSUI is too ill to attend the trial today. His cer-
7 tificate will be recorded and filed.

8 With the Tribunal's permission the accused
9 OSHIMA will be absent from the courtroom for the
10 whole of the morning session conferring with his
11 counsel.

12 LANGUAGE ARBITER (Captain Kraft): If the
13 Tribunal please, we submit the following language
14 correction. Reference: Exhibit 3388, page 2,
15 line 16. Delete "the likes of" and substitute
16 "even such a thing as."
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1 T A K E O T A N A K A, called as a witness on
2 behalf of the defense, resumed the stand and
3 testified through Japanese interpreters as
4 follows:

5 DIRECT EXAMINATION

6 MR. BROOKS: May defense document 2564 be
7 given an exhibit number?

8 CLERK OF THE COURT: Defense document 2564
9 will receive exhibit No. 3390.

10 (Whereupon, the document above re-
11 ferred to was marked defense exhibit No. 3390
12 and received in evidence.)

13 MR. BROOKS: I will now read defense document
14 2564, exhibit No. 3390, omitting the formal and ex-
15 cepted parts.

16 "In the 45th year of Meiji (1912), I was
17 graduated from the Meiji University, and after passing
18 the civil service examination, entered the government
19 service.

20 "I was appointed the Secretary of the Govern-
21 ment-General of Korea in 1919, was appointed the Di-
22 rector of the Police Affairs Bureau of the same
23 Government-General in 1936, and, after retiring from
24 the service in September of the same year, returned
25 to Japan and was out of service. Then I was appointed

1 the Vice-Minister for Overseas Affairs in April of
2 1939, and resigned the post in October of 1940. I
3 was appointed the Civil Governor of the Government-
4 General of Korea in May of 1942, and as soon as I
5 resigned in July of 1944 and returned home, I was
6 appointed the Secretary-General to the Cabinet.
7 Later I resigned the post of the Secretary-General
8 on February 1, 1945, and was nominated to the House
9 of Peers. I resigned from the House of Peers in
10 February of 1946.

11 "It was since about August of 1932 that I
12 became acquainted with General KOISO, but my political
13 connection with him began in April of 1939, when the
14 General was appointed the Minister for Overseas Affairs
15 in the HIRANUMA Cabinet, and I served as the Vice-
16 Minister under him. Since then I have been acquainted
17 with him until this day. Therefore, I will refer to
18 the following points concerning the General.

19 "1. The General's view on the so-called
20 southward expansion question.

21 "When the General was the Minister for Over-
22 seas Affairs, namely, between 1939 and 1940, the so-
23 called southward expansion question, that is, economic
24 expansion in the southern area was sought, became a
25 subject of much discussion in the country. Just at

1 that time the HIRANUMA Cabinet was in power and the
2 question how to determine the attitude toward the
3 Japanese-German-Italy Tri-Partite Alliance, as well
4 as that of southward expansion, were befalling the
5 government as the matters of national importance. In
6 addition, the government's attitude toward these ques-
7 tions was so serious a matter as would decide the course
8 of our country that every foreign nation was, with
9 keen eyesight, watching the movements of our state. So
10 I would like to elucidate the General's attitude toward
11 these two questions. The cabinet of the time made it
12 a rule to hold the Five Ministers' Conference, to-wit,
13 another meeting by the Premier and Ministers of War,
14 Navy, Foreign Affairs and Finance, besides the Cabinet
15 Meeting, and to talk over very important matters.

16 "The Tri-Partite Alliance question was, of
17 course, discussed and studied in this Conference. The
18 Minister of Overseas Affairs, however, was not a member
19 of the Conference and was nothing but an outsider holding
20 a sinecure. So he was never consulted about any matter
21 as a member of the cabinet. But the General held, as
22 his private opinion that in view of the complicated
23 international situation our foreign policy was not so
24 simple as to be necessarily pro-Italo-German, if not
25 pro-Anglo-American; or to be essentially

1 pro-Anglo-American, if not pro-Italo-German. That is
2 to say, it could not be that our foreign policy should
3 be either the right or the left.

4 "Therefore proper steps should be taken lest
5 we should remorse in future for our erroneously direct-
6 ing the course of the state by taking rash actions now.
7 KOISO expressed himself to the effect that it was ad-
8 visable at this moment to give up concluding the al-
9 liance in order to avoid producing such unfavorable
10 results as to be vainly made use of by Germany. On
11 one occasion KOISO stated this view opposing the for-
12 eign alliance privately to the Premier and the Foreign
13 Minister. As regards the southward economic expansion
14 question he was of opinion that the aimless advocacy
15 of the southward economic expansion was liable to make
16 the foreign nations mistake our intention for that of
17 expanding to the southern area with territorial ambi-
18 tions, and if so, it would be greatly different from
19 our true intention; that accordingly the necessity
20 of our economic expansion must be explained with such
21 an attitude of mind as convincing everyone of the
22 necessity for reasonable economic expansion of our
23 nation, and that for that purpose the dogged advocacy
24 of the southward economic expansion would not do, but
25 so long as the expansion was a reasonable and economic

1 one for the sake of our nation's self-support, expan-
2 sion either to the south or to the north will do, and
3 it was not always necessary to emphasize a one-sided
4 view. The General also held the view on population
5 problems that it would be difficult to encourage a large
6 population of Japanese to emigrate to the southern
7 areas as, in the light of the actual results in the
8 past, the southern climate did not seem to suit the
9 Japanese.

10 "2. His state of mind and determination
11 when he accepted the Imperial Command to form a
12 cabinet.

13 "It was on July 18th of 1944 that General
14 KOISO was summoned by the Throne to be ordered to form a
15 new cabinet. The General, at that time at his post as
16 the Governor-General of Korea, was informed of nothing
17 about the war situation except from official announce-
18 ments by the Army and Government. Various informa-
19 tions, however, made us feel that the fact was that the
20 war situation was more unfavorable for Japan than was
21 announced and that the naval power had sustained heavy
22 losses, for, at this juncture, the fall of Saipan was
23 officially announced. Therefore, not only were we
24 deeply impressed that the war situation was really
25 unfavorable, but also felt that most of the gloomy

news which had come to our ears in the past should
1 have been true. On the other hand, the general public,
2 who had up to that time half believed and half doubted
3 various rumors about the unfavorable war situation of
4 our country, began about this time to be pessimistic
5 about the prospects of war rather than deeply suspicious
6 about it. Such a state of things was not merely
7 in Korea but also even at home. It was only natural
8 that it should have been the case in Korea. Under
9 these circumstances General KOISO accepted the Imperial
10 Command to form a new cabinet. When at first he re-
11 ceived a telephone call from the Grand Chamberlain
12 about the Imperial Summons, the General said that if
13 the Emperor would by any chance order him to form a
14 new cabinet he had to give serious consideration to
15 what sort of resolution he ought to make in forming a
16 cabinet. Therefore, after most careful consideration,
17 he determined to form a new cabinet according to the
18 principles as outlined below, to-wit:

20 "A. At present the war situation is very
21 unfavorable for us. We are now defeated and in retreat,
22 and now that even Saipan fell already into the enemy's
23 hands, the prospects of war are really serious. Al-
24 though we have, of course, an eager desire to survive
25 by exhausting every means, it will be most difficult

1 to do so because of the present circumstances of being
2 overwhelmed by the enemy in the armed conflicts, and
3 because of successive lowering of production in the
4 industrial warfare.

5 "A farsighted national policy seriously
6 required us not only to hold in check in any way the
7 enemy's rushing force at this moment, but also to take
8 a cool view of how to bring the war to a conclusion.
9 The question rather lies here. For that purpose it is
10 a matter of the greatest urgency to win the hearts of
11 our people which are recently apt to be alienated from
12 the government, and the conditions of the armed con-
13 flict and of the economic warfare, the people only
14 become depressed in spirit, and it is feared that,
15 whatever attempt the government may make, it could
16 have no influence nor authority over the people. Such
17 being the case, he felt confident of the absolute
18 necessity of bracing up our people in order to increase
19 the productive power by anyhow smashing the enemy's
20 scheme for invasion and of gaining some time there to
21 take steps to negotiate peace on full scale through
22 the third powers, including the Soviet Union, as well
23 as to proceed with a prompt peace move toward China.'

24 "B. In order to accomplish the above purpose
25 he stated that the Prime Minister, assuming the

1 stewardship of state affairs, must effect a strong
2 adjustment and combination of both the political and
3 military tactics from the standpoint of the whole of
4 the state affairs, otherwise perfect administration of
5 the state affairs could not be realized in bringing to
6 a conclusion this great war. Accordingly, the head
7 of the cabinet at this moment ought to be placed in a
8 position enabling him to perform such function.'

9 "He came up to Tokyo with these thoughts we
10 had discussed in mind and with the serious determina-
11 tion given above.

12 "After having an audience with His Majesty
13 he was ordered to form a new cabinet together with
14 Admiral YONAI, so he acted up to his original principle.
15 He intended to assign the portfolio of Navy to Admiral
16 YONAI, and hoped to secure a Minister of War who would
17 help carry out their program to establish peace.

18 "In addition, he expressed his resolution that
19 he wished to decide whether or no he would comply with
20 the Imperial Command to form a new cabinet on condition
21 that the ordinance concerned should be revised at that
22 moment so as to qualify the Premier for attending the
23 meetings of the Imperial Headquarters, or else that
24 a strong and simple organ of directing the war affairs
25 should be established with a few persons as its members.

1 He received a promise that a definite answer might be
2 given. To this the Army, after Three Chief's Confer-
3 ence, replied that the war should be carried on, that
4 Field Marshal SUGIYAMA would be recommended for the
5 portfolio of the Army, and that as to the creation of
6 the War Direction Council they would meet the General's
7 desire. On the part of the Navy a reply was made to
8 the effect that the post of the Navy Minister should
9 be assigned to YONAI, and that they had no objection
10 to creating the said council. Then KOISO, after con-
11 sulting with Admiral YONAI, decided to approve of them
12 and completed the formation of the cabinet.

13 "3. The organization of the Supreme War
14 Direction Council and the actual condition of its opera-
15 tion.
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1 "The members of this council were the Chief of
2 the Army General Staff and the Chief of the Naval General
3 Staff, the Minister of War, the Minister of Navy, the
4 Prime Minister and the Minister for Foreign Affairs, the
5 Secretaries being the Secretary-General to the Cabinet,
6 the Director of the Military Affairs Bureau and the
7 Director of the Naval Affairs Bureau. It was decided
8 that besides them, both the Vice-Chiefs of the General
9 Staffs of the Army and Navy might attend the Council on
10 proper occasions and that the members of the cabinet
11 concerned were to attend it according to the contents
12 of the subjects. It was also decided that, when the war
13 situation was reported, every member of the Cabinet,
14 the Director of the Legislation Bureau and the Director
15 of the Planning Bureau were also to attend. The main
16 matters to be discussed in the council related to the
17 harmonization and adjustment between the Supreme Command
18 and state affairs. In this council there were no chair-
19 men or such like, but the Premier was to be charged with
20 the expediting the proceedings.
21

22 "The main points of the council was the harmon-
23 ization and adjustment between the supreme command and
24 state affairs as given above.

25 "As for the secrets of operations and tactics
concerning the war, the Premier was not able to touch

1 them but was a total outsider. As, nevertheless,
2 Premier KOISO happened to be a General, he sometimes
3 questioned and expressed his views about the matters
4 relating to the details of operations. Generally speak-
5 ing, however, an attitude not desiring to have the
6 Premier meddle with the tactical affairs was found among
7 the officers of the Army and Navy including the members
8 of the Council. They challenged him when he wished to
9 touch their secrets. The movements and the degree of
10 damages of the Combined Fleet, for instance, were in no
11 case informed of. Concerning the operations of the front
12 lines of the Army and Navy, he only heard of the general
13 war situation, when it was reported, in company to the
14 cabinet colleagues.

15 "In short, the Premier had a great expectation
16 at the outset for the council, and yet the actual cir-
17 cumstances were, as mentioned above, against his expect-
18 ation. Such being the case, since it was impossible
19 to materialize the primary principle decided at the time
20 of forming the cabinet, KOISO finally asked the Throne
21 to issue an Imperial order authorizing the Premier to
22 attend the conferences of the Imperial Headquarters.

23 "However, as for his attending the Imperial
24 Headquarters, the authority of the Premier was confined
25 to being informed of the condition of operations and

1 tactics and he was not vested with the authority to set
2 forth his view and to have a share in the discussions
3 in the conference on operations and tactics. Therefore,
4 KOISO was not placed in the position at which he could
5 have his views from a standpoint of the general state
6 affairs reflect on the direction of the front line.
7 Now the Premier discussed the idea that after all that it
8 would be impossible to carry forward his ideas for end-
9 ing the war, unless he would return to actual service
10 and hold the additional portfolio of War Minister, to
11 perfect the adjustment of the supreme command to the
12 state affairs. He took steps to get this power but in
13 spite of his effort to get back on the active list of
14 the army so he could hold the concurrent portfolio of
15 War Minister he could not obtain approval necessary from
16 the Three Chiefs of the Army. By the way, I would like
17 to add here a special remark. It is that Premier
18 KOISO took pains, in the Supreme War Direction Council,
19 for making the moves toward the Soviet Union and China
20 relative to concluding the war.

21 "4. The general's view and attitude in regard
22 to the disposition of the China Affair.

23 "The General's view on the China Affair was as
24 follows:

25 "Originally seeking, Japan ought not rashly

1 tactics and he was not vested with the authority to set
2 forth his view and to have a share in the discussions
3 in the conference on operations and tactics. Therefore,
4 KOISO was not placed in the position at which he could
5 have his views from a standpoint of the general state
6 affairs reflect on the direction of the front line.
7 Now the Premier discussed the idea that after all that it
8 would be impossible to carry forward his ideas for end-
9 ing the war, unless he would return to actual service
10 and hold the additional portfolio of War Minister, to
11 perfect the adjustment of the supreme command to the
12 state affairs. He took steps to get this power but in
13 spite of his effort to get back on the active list of
14 the army so he could hold the concurrent portfolio of
15 War Minister he could not obtain approval necessary from
16 the Three Chiefs of the Army. By the way, I would like
17 to add here a special remark. It is that Premier
18 KOISO took pains, in the Supreme War Direction Council,
19 for making the moves toward the Soviet Union and China
20 relative to concluding the war.

21 "4. The general's view and attitude in regard
22 to the disposition of the China Affair.

23 "The General's view on the China Affair was as
24 follows:

25 "Originally speaking, Japan ought not rashly

1 meddle in China. It is inevitable that once Japan is
2 involved in China she will be drifted into a fix as if
3 stepping into a swamp. Accordingly, we ought, for Japan's
4 sake, to be most cautious against wasting our national
5 power, being plunged in such a sad plight. Unfortunately,
6 ly, however, that Japan and China became at war with
7 each other is really so deplorable a matter that we
8 must lose no time in recovering peace and restoring the
9 relation of true cooperation to both States.'

10 "This view which he had held consistently could
11 not manifest itself in concrete actions till the General
12 assumed the premiership. On his being appointed Premier
13 later, he firmly urged this view onward. Namely, he,
14 while in office as the Premier, left nothing undone to
15 try to succeed in a peace move toward the Chungking
16 Government. Also in the Supreme War Direction Council,
17 he repeated deliberation on this matter, taking pains
18 over materializing his original intention, but he
19 failed in the end due to various circumstances that will
20 be explained. For instance I think that Miu Pin Issue,
21 one of the movements of the KOISO Cabinet to restore
22 peace, serves the purpose of proving how the General
23 was intent on the realization of peace with China, apart
24 from the questions whether or not he dealt with the
25 issue adroitly and what its outcome was.

1 "I would like here to explain the Miu Pin Issue.
2 The said man named Miu Pin was of Central China and once
3 served as the Vice-President of the Hsin-Min-Hui (New
4 Nation Association) of North China. He was later
5 appointed the President of the Legislative Yuan (Bureau)
6 of the Nanking Government and then relegated to the Vice-
7 President of the Examination Yuan (Bureau). As he was
8 once the instructor at the Huangpu Military Academy,
9 he had a considerable acquaintance with those army men
10 around Chiang Kia-shek and seemed to have been intimate
11 with, for instance, Yo Ying-chin. He visited this
12 country in 1939 when he was the Vice-President of the
13 Hsin-Min-Hui. On that occasion, General KOISO met him
14 by my introduction. Miu unbosomed himself, explaining
15 the reason for the real necessity of cooperation between
16 Japan and China, so there was much sympathy between
17 them. Ever since they had no particular connection with
18 each other. After the General assumed the premiership,
19 however, he was urged by Minister of State OGATA to
20 send for Miu Pin to hear his opinion about the peace
21 question between the two countries. On the part of
22 Premier KOISO, it happened that, as the diplomatic
23 operations toward Chungking came to all but a deadlock,
24 he, as the Premier, was very worried at heart about it
25 and was desirous of breaking it by some means. Therefore

1 he thought that, although it was uncertain how much
2 influence Miu Pin should have upon the Chungking Govern-
3 ment, it should be fortunate if he would be of any use
4 to settling the peace question between Japan and China
5 and that, if a step was taken further and a direct
6 connection could be established with Chungking, it should
7 be still more favorable. With such an idea, he took
8 Minister OGATA's advice and tried to first bring him
9 to Japan to hear his opinion well and then to decide
10 our attitude and policy concerning whether or not they
11 should make use of him. However, as a result of this
12 plan having met with the opposition from both the Army
13 and diplomatic circles, everything came to a deadlock
14 and ended in failure except the success in bringing
15 Miu Pin to Japan. In consequence, the said Miu returned
16 to Nanking in vain.

17 "KOISO also took great pains in order to bring
18 about peace at large through the medium of the Soviet
19 Union. Not only did he make moves in various ways at
20 home but also the negotiations were entered into with
21 the Soviet Union, but unfortunately they ended in
22 failure.

23 "It was as mentioned above that he as well gave
24 his constant energies to realizing the peace between
25 Japan and China. As to these diplomatic moves,

1 sometimes his opinion on procedure did not agree with
2 the Foreign Minister and others to bring about peace.
3 So far as I know, that he dared to try to realize what
4 he believed good for all the adverse circumstances was
5 because he was confident that it would serve the state
6 to materialize his primary intention which he had cher-
7 ished at the outset of forming the cabinet.

8 "5. On his speech in the 85th Session of the
9 Diet.

10 "When the cabinet was formed in these circum-
11 stances as given above, the 85th Session was at hand.
12 So Premier KOISO delivered a speech on the government
13 policy at the beginning of the Session to make his
14 opinion clear. The contents of his speech was nothing
15 but a concrete expression of his determination with
16 regard to forming the cabinet. Namely, in this speech,
17 he required the hundred million people to brace themselves
18 up in unison for the task ahead and he declared the
19 Indonesians' independence to be justifiable, because
20 every race is entitled to independence and to be able
21 to maintain a proper position among other nations and for
22 that reason he also proclaimed that the Korean and
23 Formosan people should quickly be vested with suffrage.

24 "6. As for the treatment of war prisoners, the
25 Supreme Command and the Ministers of War and Navy took

1 charge of these matters and the Prime Minister neither
2 had the authority over it nor assumed the responsibility
3 for it. Accordingly, the cabinet at no time dealt with
4 affairs relating to the treatment of war prisoners.
5 Besides, according to my memory, no one ever gave any
6 reports about prisoners of war matters at the cabinet
7 council."

8 You may cross-examine.

9 MR. SUTTON: The prosecution does not desire to
10 cross-examine this witness.

11 MR. BROOKS: May the witness be released on
12 the usual terms?

13 THE PRESIDENT: He is released accordingly.

14 (Whereupon, the witness was excused)

15 - - -

16 MR. BROOKS: We now offer in evidence defense
17 document 2213. This is the affidavit of Major General
18 F. S. G. Piggott, former military attache to the British
19 Embassy in Japan and is offered as evidence that KOISO
20 was opposed to war with Great Britain and the United
21 States and that he had a different opinion from that of
22 the Army.

23 THE PRESIDENT: Mr. Sutton.

24 MR. SUTTON: May it please the Tribunal, the
25 prosecution objects to this affidavit as containing

1 primarily the opinion of the affiant. The prosecution
2 particularly objects to the second sentence in the second
3 paragraph of this affidavit which purports to give the
4 belief of the witness as to why KOISO retired from the
5 Army on the ground that it is opinion evidence. The
6 prosecution also objects to the next to the last para-
7 graph of the affidavit as purely character evidence.

8 MR. BROOKS: If your Honor please, I will agree
9 to the deletion of the first objection. I think it is
10 the third paragraph, last sentence in the third paragraph
11 really. As to the last one, part of that should be
12 admitted. However, there is a statement there of fact
13 which I will not quote but the Court can see it in the
14 latter part of it that should be admissible and since
15 this is a court and not a jury I think they can over-
16 look them. The statement of the conclusion would have
17 no affect upon it.

18 THE PRESIDENT: We don't overlook them because
19 of the waste of time involved in having them repeated
20 ad nauseum. If we allowed those things to pass liberally
21 we would be sitting here half our time listening to a
22 lot of immaterial matter.

23 MR. BROOKS: I agree to the deletion, if your
24 Honor please, in the last paragraph from the word
25 "broadminded" in the first sentence of that paragraph

1 down to and including the word "and" in the third sentence
2 of that paragraph just before "a statesman not necessarily
3 reflecting." So it would start with "General KOISO
4 struck me as" and then would jump to "a statesman not
5 necessarily," and so forth.

6 THE PRESIDENT: The objection is sustained by a
7 majority and the balance is admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 2213 will
9 receive exhibit No. 3391.

10 (Whereupon, the document above referred
11 to was marked defense exhibit No. 3391 and
12 received in evidence.)

13 MR. BROOKS: I now read defense document 2213,
14 exhibit 3391, omitting the excepted parts:

15 "I, F. S. G. Piggott, being first duly sworn,
16 depose and say.

17 "I was Military Attache to the British Embassy,
18 Tokyo, Japan, from 1921 to 1926 and from 1936 to 1939.

19 "I met General KOISO, Kuniaki in Tokyo in 1939.

20 "It was on account of a possibility that he
21 might be a 'dark horse' for the premiership that I
22 sought his acquaintance, with the concurrence of the
23 British Ambassador.
24

25 "I found General KOISO receptive to the idea of
improving Anglo-Japanese relations, which, he stated,

1 was important for his country. He stated that the
2 idea of solving disagreements between Japan and Great
3 Britain, and between Japan and the United States by war
4 was repugnant to him, and he said it was essential to
5 probe to the bottom and find a peaceful solution. He
6 said he would continue to study the outstanding problems
7 between our countries, and was certain the old friend-
8 ship could be restored to our mutual advantage.

9 "Our conversations were carried on in the
10 Japanese language."
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1 THE PRESIDENT: Mr. McManus.

2 MR. McMANUS: If the Tribunal please, in view
3 of the Tribunal's most recent ruling, this last deci-
4 sion in admitting this document, may I request the
5 Court to reconsider the defense document, the question-
6 naire, 573, submitted on behalf of the defendant ARAKI?

7 THE PRESIDENT: Mr. Sutton.

8 MR. SUTTON: May it please the Tribunal,
9 the prosecution respectfully objects to the interruption
10 of the proceedings at this point and strongly objects
11 to the motion made on behalf of defense counsel.

12 THE PRESIDENT: I haven't the faintest idea
13 what it is about. I do not recollect anything of
14 ARAKI's questionnaire. Anyhow, the application should
15 not be made now, at this stage. I should out of pure
16 courtesy be told about it by counsel in chambers. It
17 should be explained to me.

18 I fail to see how the upholding of any
19 objections by the prosecution can be held to admit
20 anything already rejected in the case of ARAKI. And
21 the prosecution made further objections to this affi-
22 davit, they may well have been sustained.

23 MR. McMANUS: I shall make my application
24 later, if the Tribunal please.

25 MR. BROOKS: We now offer in evidence defense

1 document No. 2491. We do not desire to read this
2 document, but offer it for the Court's consideration
3 of the conditions in Japan as a result of air raid damage
4 to communications, transportation, etc., during the
5 period from July 1944 following the time that KOISO
6 was Premier, and we submit that a study of this docu-
7 ment and the official reports contained therein will
8 make clear to the Tribunal the conditions as to food
9 and receipt and transmittal of information that were
10 the problems with which KOISO had to deal at the time
11 he was appointed Prime Minister in the effort to
12 prevent the complete destruction of Japan.

13 The Court, after considering this evidence,
14 may well understand the reason for shortages of food,
15 clothing, etc., and understand also why the Premier
16 was principally occupied with alleviating conditions
17 in Japan where whole cities were being wiped off the
18 map by bomb raids destroying lives and property and
19 creating chaotic and emergency situations that called
20 for the undivided attention of the government and
21 destroyed contact with and interest in the affairs
22 of military forces at the front. It also shows why
23 KOISO's Cabinet has stated that its policy was one of
24 fighting a defensive war to avoid total destruction
25 while attempting to obtain a negotiated peace.

1 THE PRESIDENT: Mr. Sutton.

2 MR. SUTTON: May it please the Tribunal,
3 the prosecution first objects to the long and detailed
4 statement made by counsel in presenting this document.

5 THE PRESIDENT: You could save reading it if
6 it is admitted, of course.

7 MR. BROOKS: Your Honor, I submit there is
8 nothing that I could not have said on an opening state-
9 ment, and I did not intend to read it. That is why
10 I made the statement.

11 MR. SUTTON: The prosecution objects to
12 this document on the ground that it is immaterial and
13 irrelevant to any of the issues involved in this case.
14 Had the document been pertinent, it should have been
15 tendered in the general phase. The Tribunal has here-
16 tofore rejected evidence tending to prove the circum-
17 stances surrounding the use of the atomic bomb, record
18 page 17,655 to 17,662.

19 MR. BROOKS: The Court will notice this is
20 not confined to the atomic bomb alone, and it is
21 specifically covering the period of KOISO's holding
22 office as Premier from 1944. It does not cover the
23 years from 1928 to 1945, the end of the war.

24 THE PRESIDENT: By a majority, the objection
25 is upheld and the document rejected.

1 MR. BROOKS: I request that a letter dated
2 14 July 1947 to the President of this Tribunal on the
3 subject, Correction of Exhibit 158, record pages 1441
4 to 1443, be given exhibit No. 3384-A for identification
5 only; and I request that the matters referred to therein
6 be referred to the Language Arbitration Board for
7 corrections, if possible, in line with exhibit 3384.

8 CLERK OF THE COURT: The letter dated July 14,
9 1947, to the International Tribunal, will receive
10 exhibit No. 3384-A for identification only.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3384-A for identification.)

14 THE PRESIDENT: Any application for the cor-
15 rection or revision of any document by the Language
16 Section will be granted.

17 MR. BROOKS: This concludes the presentation
18 of evidence on behalf of the defendant KOISO for the
19 time being, and counsel for the next accused in
20 alphabetical order will now proceed.

21 THE PRESIDENT: Mr. Chief of Counsel.

22 MR. KEENAN: Mr. President, the prosecution
23 inquires of the Court if a final decision has been
24 reached as to granting the request of the prosecution
25 that its witness, BULARIN, be permitted to take the

stand and affirm his affidavit under oath, as have other
1 witnesses. This request has been made and is emphasized
2 because one of the Allied nations has caused this wit-
3 ness to traverse a continent at considerable expense
4 and some effort in its attempt to comply with the orders
5 of this court. Especially in view of the fact that
6 this nation, the Soviet Union, has always promptly and
7 earnestly cooperated in this prosecution, and further
8 in view of the fact that the President has stated that
9 one or more Members of the Court has some inquiries
10 to make of this witness, the prosecution most earnestly
11 represents its belief that it would be most unfortunate
12 if this request could not be complied with. However,
13 Mr. President, we seek direction from this Court, and
14 represent that a careful examination, a very careful
15 examination, of the record discloses that that matter
16 has not finally been disposed of.

18
19 On the second point, Mr. President, of the
20 ultimate action of the Court on these affidavits where
21 witnesses have not appeared for one reason or another,
22 my colleague, Mr. Tavenner, is prepared to advert to
23 the record and give opposition fully, if this be the
24 appropriate time.

25 THE PRESIDENT: On the first point, Mr. Chief
of Counsel, a Member of the Tribunal has submitted to

1 the other Members a list of the questions that he would
2 like to ask of the Russian witness you named. He says
3 they are necessary to enable him to be clear as to
4 what the affidavit contains. I have not been notified
5 of any opposition by any Member of the Tribunal, so
6 the witness may be called.

7
8 MR. FURNESS: If the Court please, could we
9 have time to get the affidavit? We did not bring it
10 with us.

11 THE PRESIDENT: I think we should meet you
12 there. If you haven't brought the affidavit, we will
13 give you time to get it. In the meantime, we can be
14 going on with Mr. Tavenner's matter.

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1 MR. TAVENNER: If the Tribunal please --

2 THE PRESIDENT: Mr. Tavenner.

3 MR. TAVENNER: The Chief of Counsel has
4 requested that I present the prosecution's views
5 with regard to the affidavits of certain witnesses
6 in the Russian phase whose presence for cross-
7 examination has not been secured. At page 31,214
8 of the transcript the following announcement was
9 made by the President of the Tribunal: "As to the
10 other witnesses who are being detained in the Soviet
11 Union the Court will consider the matter." It will
12 be my purpose in this statement, prepared for simul-
13 taneous translation, to outline the situation that
14 now exists with regard to these witnesses, state
15 briefly how the situation is now changed from what
16 it was when this matter was originally heard, call
17 to the Tribunal's attention three points which were
18 not considered at that time, and allude briefly to
19 a connected matter, the recent request of defense
20 counsel to reopen the general Soviet phase of the
21 defense case.

22
23 During the case in chief for the prosecution
24 the Russian prosecutor introduced in evidence thir-
25 teen affidavits of Japanese prisoners of war. At
that time three of the affiants were brought to Japan

1 from Russia, two of whom were cross-examined, and
2 the third, KUSABA, committed suicide. The affidavit
3 of KUSABA was admitted. The affidavit of a fourth
4 witness, the deceased MIYAKE, was admitted, and the
5 affidavit of a fifth witness, NOKATA, shown to be in
6 Germany, was admitted.

7 On the 17th day of June last, page 24,517
8 of the transcript, the Tribunal ordered the prosecu-
9 tion to produce for cross-examination certain wit-
10 nesses within a period of two months or within such
11 longer period as may on cause shown be approved by
12 the Tribunal or, alternatively, to give convincing
13 reasons within the said period why they are not
14 able to produce the said witnesses. It was then
15 announced that the Tribunal will disregard the
16 affidavits of any one or more of the deponents in
17 respect of whom the prosecution fails to comply with
18 the order. On the showing of good and sufficient
19 cause the Tribunal extended the time for the produc-
20 tion of the witnesses.

21 The Russian prosecutor endeavored to the
22 best of his ability to meet the terms of the Tribunal
23 and has produced three additional Japanese prisoners
24 of war whose cross-examination has now been completed.
25 There remain for consideration five of the original

thirteen affidavits. At this point, if the Tribunal
1 please, I desire to offer in evidence prosecution
2 document 3229. It is a certificate by S. P. Kis-
3 lenko, Acting Member of the USSR of the Allied
4 Council for Japan, dated October 27, 1947, regarding
5 one of the five deponents last mentioned. A copy of
6 that has been served on the defense.
7

8 MR. BLAKENEY: Yes, I have seen the document,
9 and I would like to make some objections to it on
10 the grounds that, first, the document does not show
11 the date of death of the deceased, but is merely
12 dated on some day in October, certifying that he
13 has died, time and place unspecified.

14 THE PRESIDENT: According to our copy,
15 Major Blakeney, he died on the 7th of August, 1947,
16 if I have been given the right copy. That has been
17 added in ink.

18 MR. BLAKENEY: I see that addition for the
19 first time. It was not on the copy served on the
20 defense.

21 I wish to make objection further on the
22 grounds that the prosecution is not engaged at this
23 time in presenting evidence, but ostensibly in making
24 a motion, and I think it improper to present evidence
25 in support of a motion based, as the prosecutor said,

on the record.

1 THE PRESIDENT: The technical procedure
2 suggested by Major Blakeney, assuming it applies any-
3 where, has no merit except its technical merit.

4 Your objections are overruled and the docu-
5 ment admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 3229 will receive exhibit No. 3392.

8 (Thereupon, the document above
9 referred to was marked prosecution exhibit
10 No. 3392 and received in evidence.)
11

12 MR. TAVENNER: It has just been pointed
13 out to me that the Russian text, which is the origi-
14 nal of this document, contains the date and the place
15 of death. In the copy that was circulated apparently
16 that date was left out.

17 It reads as follows:

18 "In accordance with the official data re-
19 ceived from competent Soviet authorities, KITA,
20 Seichi, former General of the Japanese Army, Japanese
21 POW in the USSR, born in 1886, died in Habarovsk of
22 seleron's hypertony and heart-valve insufficiency in
23 Hospital No. 08903 on August 7, 1947."
24

25 It is respectfully submitted that the
decision of the Tribunal in admitting the affidavit

1 of the deceased HIYANE is applicable in this instance,
2 and based on that decision the affidavit of KITA
3 should be accepted as part of the evidence in this
4 case.

5 The remaining four affidavits are those made
6 by: USHIROKU, Jun, exhibit 703, appearing at page
7 7,515 of the transcript; TOMINAGA, Keoji, exhibit
8 705, page 7,527; OTEUBA, Kajima, exhibit 837, page
9 8,162; and Y. NAGITA, Genzo, exhibit 723, page 7,581.
10 All efforts of the prosecution to present these four
11 deponents for cross-examination have been exhausted.
12 It has been previously explained that they are con-
13 nected with other cases in the USSR and for security
14 reasons they cannot be produced. The prosecution
15 having done all within its power in this matter, the
16 Tribunal is now asked to make a final disposition of
17 the question.

18 Since the pronouncement of the Tribunal on
19 the 17th day of June last, the situation has materially
20 changed:

21 (1) On September 10, 1947, page 28,068 of
22 the transcript, precisely the same objection was
23 raised to the introduction in evidence by the defense
24 of the affidavit of E. G. W. Woodhead without making
25 him available for cross-examination. The Tribunal

1 admitted the affidavit. It is submitted no proper
2 and material distinction in principle can be made
3 with regard to the Woodhead affidavit and the affi-
4 davits in question. In other words, a contrary rule
5 has now been established by the Tribunal. It is sub-
6 mitted that if the question with regard to the four
7 Russian witnesses had arisen after the decision
8 regarding the defense affidavit of Woodhead, the
9 Tribunal would have applied the same rule and would
10 have admitted the Russian affidavits in the same
11 manner that they admitted the Woodhead affidavit.

12 (2) As previously stated, it has been
13 demonstrated that the prosecution has done all it
14 can to present these four deponents for cross-examina-
15 tion.

16 (3) One of the objections to the use of
17 the affidavits in evidence was based on a vitupera-
18 tive attack by counsel against one of the partici-
19 pating nations, the substance of which was that
20 duress had been used in obtaining the affidavits.
21 The cross-examination of the witnesses just produced
22 has demonstrated the emptiness of such a charge and
23 the wholly unwarranted character of it.

24 (4) One of the chief items of evidence in
25 the first three of the said affidavits concerns the

1 Kan-toku-en. This was the subject of long, exten-
2 sive and exhaustive cross-examination of the three
3 Japanese witnesses produced by the Russian prosecutor
4 last week. By this cross-examination the defense has
5 had a fair opportunity to develop its theories, and
6 it is submitted further cross-examination on that
7 subject would be needlessly repetitive. As to the
8 other subjects dealt with in these affidavits, the
9 evidence is to a great extent cumulative, as pointed
10 out by my distinguished colleague, General Vasiliev,
11 when this matter was first heard.

12
13 I now desire to call the Tribunal's atten-
14 tion to three points which hitherto have not been
15 argued, and in connection with the first I will refer
16 to the recent defense request to reopen the general
17 Soviet phase of the defense case.

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(1) The first three of the four affidavits with which we are now concerned were adopted by the defense. Substantial portions of them were offered and read in evidence by defense counsel. In fact, more than half of the affidavit of USHIROKU was read in evidence by the defense, if the curriculum vitae evidence not be considered. In offering this evidence, counsel endeavored to place the Tribunal on terms, that is, to present it subject to the decision of the Tribunal on the defense motion to exclude it. No such terms were granted by the Tribunal, and without such leave being first obtained the proffer of the testimony, it is submitted, is free from any self-imposed terms of the offerer. As the defense objection was directed at the admissibility of the entire document, it is submitted, the subsequent adoption of a part of it is a waiver and abandonment of the original objection. The defense should not be permitted to accept the sweet and reject the bitter.

In this connection, defense counsel, page 31,842 of the transcript, announced that he must ask leave to reopen the general Soviet phase of the defense case as he wished to adduce other evidence in substitution for the parts of the prosecution affidavits which the defense offered in evidence.

1 This indeed would be an innovation. If the defense
2 be permitted to substitute new evidence, the prose-
3 cution under the circumstances should have the same
4 privilege. This would result in a retrial of the
5 Soviet phase of the case, for which, we submit, there
6 is no justification. The defense chose to introduce
7 in evidence testimony which it formerly sought to
8 exclude. It is bound by that choice, and in making
9 it the defense has abandoned or waived its original
10 objection.

11 In addition, it was stated by defense
12 counsel that reopening of the general Soviet phase
13 would be necessitated by the cross-examination of the
14 witnesses then being produced. In answer, we submit
15 that the defense had no right to assume that any
16 affidavit would be excludd by reason of non-production
17 of the deponent, and if the defense had testimony to
18 meet these affidavits which had been admitted and
19 failed to present it, it was of their own volition
20 and choice. In fact, the decision of June 17 was
21 long after the close of the Soviet phase. Nothing
22 has occurred to my knowledge in the course of cross-
23 examination which would make admissible now evidence
24 which was not admissible during the Russian phase or
25 relevant now that which was not relevant then.

(2) The prosecution contends that the lang-

uage of the Charter contemplates the admission of
1 these affidavits.

2 Article 13, Section A, provides that the
3 Tribunal shall admit any evidence which it deems to
4 have probative value. It would seem unnecessary to
5 argue that the sworn statements of these witnesses
6 have probative value, especially in light of the
7 showing made by the deponents as to whom the prose-
8 cution was successful in producing for cross-
9 examination.

10 Article 13-C, without limiting in any way
11 the scope of Subsection A, enumerates specific types
12 of evidence which may be admitted and under Sub-
13 section 3 thereof includes affidavits.

14 It is respectfully submitted that the
15 affidavits in question should be admitted under either
16 or both of these Charter provisions.

17
18 (3) The Nuernberg Tribunal construed a
19 similar Charter provision. While it is conceded that
20 this Tribunal is in no way bound by the ruling of that
21 body, it is respectfully suggested that its rulings
22 are entitled to great weight. In passing on the
23 affidavit of a witness who was not in Nuernberg at
24 the time of presentation, that Tribunal stated:

25 "I said that you are at liberty to put in
the document now if you wish to do so. That is one

1 thing. But if you do so you must attempt to secure
2 the attendance of the witness and should you fail to
3 do so, the Tribunal will attempt to secure the
4 attendance of the witness. But the document will
5 still be in evidence and will not be struck out, al-
6 though of course it will be open to the criticism
7 that it is only a deposition or an affidavit and
8 that the witness has not been produced for cross-
9 examination, and therefore the weight that attaches
10 to the testimony will not be so great as it would be
11 if the witness had been produced for cross-examination."
12

13 We respectfully submit that for all the
14 reasons assigned, the affidavit of KITA and the other
15 four deponents should be admitted and considered in
16 evidence. If that be the decision of the Tribunal,
17 there is no basis for the granting of defense request
18 to reopen the general Russian phase and such request,
19 it is respectfully submitted, should be denied.
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THE PRESIDENT: Major Blakeney.

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2 MR. BLAKENEY: This request of the
3 prosecution to reopen the decision of the Court,
4 arrived at after full and solemn consideration, is
5 somewhat astonishing to the defense, and, of course,
6 we wish the opportunity to reply fully to it. Equally,
7 of course, I am not prepared to do so now, not having
8 known what matter was coming up, and therefore I should
9 like to request that I be allowed some reasonable
10 time to prepare an answer to this motion, if the
11 Tribunal intends to entertain the motion at all
12 in spite of the repeated rulings of the past. In
13 that event, I should like to ask that I be permitted
14 to be heard, say, Monday morning, this being Thursday,
15 or at such other time as may be convenient to the
16 Tribunal.

17 THE PRESIDENT: What about tomorrow morning,
18 Major Blakeney?

19 MR. BLAKENEY: That, of course, means that
20 I and the translators will have to stay up all night
21 preparing the argument and having it ready for
22 simultaneous delivery.

23 THE PRESIDENT: It depends on the length of
24 the argument, of course.

25 MR. BLAKENEY: It will be at least as long

1 as the motion and perhaps longer, because of what I
2 consider to be the numerous misstatements of fact
3 which must be corrected by references to the record.

4 THE PRESIDENT: Do you make any exception
5 of KITA's case?

6 MR. BLAKENEY: Exception?

7 THE PRESIDENT: Yes. Are you objecting to
8 the production of his affidavit or to its being used,
9 seeing that he is dead according to the evidence
10 before us?

11 MR. BLAKENEY: Yes, of course, we do object
12 to the reception of that affidavit as well as others
13 in similar case, some of which the Tribunal ruled
14 would be accepted de bene esse.

15 THE PRESIDENT: Well, I think we are quite
16 prepared to give you to Monday morning to reply.

17 MR. BLAKENEY: Thank you.

18 THE PRESIDENT: The Tribunal would like to
19 know why it is not possible to have any witness, any
20 affiant, who is still alive produced here in Tokyo.
21 I know security reasons have been stated, but we need
22 some amplification of that.

23 I know how absolute in our own courts such a
24 pronouncement would be by, say, a foreign secretary
25 or a person of that standing, but here in this Court

1 perhaps we may be given a little more information, if
2 the philosophy underlying a foreign secretary's
3 pronouncement in relation to the tribunals of his
4 own country has no application here. The courts of
5 a nation are not allowed to get out of line with its
6 foreign policy; that is the philosophy. But here we
7 are not bound by the policy of any particular nation,
8 but we must respect its real security measures.

9 We will hear you after the recess, General.
10 We will recess for fifteen minutes.

11 (Whereupon, at 1045, a recess was
12 taken until 1105, after which the proceed-
13 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

2 THE PRESIDENT: With the Tribunal's permission,
3 the accused MUTO will be absent from the courtroom for
4 the balance of the morning session, conferring with his
5 counsel.

6 General Vasiliev.

7 GENERAL VASILIEV: The impossibility to produce
8 other witnesses, Japanese prisoners of war who are at
9 present in the USSR, is explained by the fact that they
10 are connected with other war crimes trials committed
11 against the USSR.

12 THE PRESIDENT: Which is the more important,
13 or the most important trial of all?

14 GENERAL VASILIEV: Your question is not clear
15 to me, your Honor.

16 THE PRESIDENT: This, I should say, is the
17 greatest war crimes trial now in existence.

18 GENERAL VASILIEV: I fully agree with that
19 statement, sir, but the participation of these people
20 is quite different in this trial and in the trials that
21 are going on in the USSR. In the trials that are going
22 on in the USSR we cannot do without these people at all.
23 These cases are being investigated at present, or
24 haven't yet been investigated by the courts. The
25

1 efficiency in the investigation and examination of
2 these cases is a matter of state security.

3 The proper document from the Ministry of
4 Foreign Affairs of the USSR I will be able to produce
5 in a few days. I believe it will be a telegram certi-
6 fied by the Member from the USSR of the Allied Council
7 for Japan. I don't think I will be able to produce any
8 other document in so short a time.

9 THE PRESIDENT: Yes. Have you said all you
10 propose to say, General?

11 GENERAL VASILIEV: Yes, sir.

12 May I call the witness Budarin?

13 THE PRESIDENT: Call him.

14 GENERAL VASILIEV: May the witness Budarin
15 be called?
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1 B O R I S A L E X A N D R O V I C H B U D A R I N,
2 called as a witness on behalf of the prosecution,
3 being first duly sworn, testified through Soviet
4 interpreters as follows:

5 THE PRESIDENT: I have a number of questions.
6 Produce his affidavit first.

7 GENERAL VASILIEV: May the witness take a look
8 at his affidavit, according to the adopted procedure,
9 and confirm it?

10 (Whereupon, a document was handed
11 to the witness.)

12 DIRECT EXAMINATION

13 BY GENERAL VASILIEV:

14 Q State your surname, first name, and father's
15 name.

16 A Budarin, Boris Alexandrovich.

17 Q What post did you hold when the vessel Perekop
18 perished?

19 GENERAL VASILIEV: May the witness be shown
20 document No. 822?

21 (Whereupon, a document was handed
22 to the witness.)

23 Q Is this your affidavit?

24 A I answer your first question: I was first
25 mate of the ship Perekop.

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18 perished?

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20 document No. 822?

21 (Whereupon, a document was handed
22 to the witness.)

23 Q Is this your affidavit?

24 A I answer your first question: I was first
25 mate of the ship Perekop.

1 The second question was to look through my
2 affidavit, wasn't it? Yes, this is my affidavit, written
3 by me.

4 Q Are the contents thereof true and correct?

5 A Yes, true and correct.

6 GENERAL VASILIEV: I ask the permission of the
7 Court to read the first four and one-half pages of the
8 affidavit, as only a few sentences from that affidavit
9 were read previously, pages 8049 and 8050 of the
10 transcript.

11 THE PRESIDENT: A majority of the Court will
12 not permit that, General. They have agreed merely to
13 certain questions being put, through me, by a Member of
14 the Tribunal. I am about to put them.

15 BY THE PRESIDENT:

16 Q The first question is, where were the
17 identification signs located on the vessel Perekop?

18 A May I answer?

19 The identification signs were in the following
20 places: First of all, on both boards of the ship.

21 Q What did those signs signify?

22 A These flags had the state flag of the USSR with
23 hammer and sickle in the left-hand upper corner.
24

25 Q What was their size?

 A About the size of the flags, I can say as

1 follows: First of all I would like to say that the
2 flags were on the holds and on the boards of the ship,
3 and their size was as follows: two meters twenty centi-
4 meters long and one meter twenty-five centimeters wide.
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Q When were they made?

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2 A All the identification signs on the ship
3 were made at the time of the outbreak of the war
4 between Germany and the USSR.

5 Q At what distance could those signs be dis-
6 tinguished in conditions of normal visibility, with
7 or without instruments?

8 A Those identification signs -- the distance
9 at which those identification signs could be dis-
10 tinguished depended on the quality of the instru-
11 ments; but if no instruments were used they could
12 be distinguished with the naked eye at the distance of
13 200, 250 meters in conditions of good visibility.

14 Q What do you mean when you say that you had
15 hung out identification flags?

16 A When a ship wants to show its nationality,
17 in addition to those identification signs which it has
18 on boards and on holds of the ship, we hung out
19 nationality colors consisting of four flags with the
20 letters "USSR" on them.

21 Q Did you see any other vessels on the day of
22 the alleged attack?

23 A No, I saw no other vessels on the day of
24 the attack, but I saw some vessels prior to that day.
25

Q Are you familiar with the systems of air-

planes?

1 A Yes, I know the system of planes so far
2 that I could distinguish bomber from destroyer --
3 from a fighter, and I know that bombers drop bombs.

4 Q Were the attacking planes biplanes or mono-
5 planes. seaplanes or land planes?
6

7 A The first plane which flew over us was a bi-
8 plane. All other planes which bombed the vessel --
9 all of them were monoplanes.

10 Q Were there any seaplanes?

11 A I can't tell exactly whether those planes
12 were land planes or seaplanes, because at the time
13 of bombing I had no possibility to observe them care-
14 fully.

15 Q What were the identification signs on the
16 attacking planes, that is to say, their form, color,
17 and size?

18 A The identification signs that were on the
19 planes that bombed the vessel were red circles on the
20 planes and fuselage of the aircraft, and their size
21 was about three-quarters of a meter.

22 Q Approximately at what distance from your ship
23 did the enemy aircraft fly?
24

25 A The flight at which the planes flew was dif-
ferent: sometimes 100 meters, sometimes 200 meters,

1 sometimes 100 meters, sometimes 50 meters, and some-
2 times even less.

3 Q How did you know at the moment of the
4 attack on December 17 there were no hostilities be-
5 tween the USSR and Japan?

6 A I remember that on that day we received
7 a radio broadcast called the "Pacific Ocean Seamen,"
8 which is broadcast specially for the seamen, and
9 from that broadcast we learned that there was no
10 war between the USSR and Japan.

11 Q Why were two hours needed for the big group
12 of planes to sink the unarmed ship?

13 A Will you kindly repeat the question, please?

14 Q Why were two hours needed for the big group
15 of planes to sink the unarmed ship?

16 A When the bombing planes were bombing the
17 vessel, I had no opportunity of observing time. I
18 believe it was two o'clock -- I believe it was two
19 hours or probably less than that that the planes came
20 and went and dropped bombs on the vessel.

21 Q On what do you base your statement that one
22 of the planes photographed the ship while it was sink-
23 ing?

24 A It is my personal opinion. I observed the
25 plane did not bomb the vessel. Neither did it machi-

1 gun it. It was flying at a very low height, and so I
2 supposed that the plane was -- that they were photo-
3 graphing the vessel at the moment when it was sink-
4 ing and to see how the sailors were being drowned.

5 Q What was the weather at the moment of the
6 attack?

7 A There were no clouds; the visibility was
8 very good.

9 Q What was the ship's cargo?

10 A We had no cargo.

11 Q What was the ship's tonnage?

12 A About 5,000 tons.

13 Q How did you make yourself understood by the
14 Japanese when you were wandering?

15 A We used the English language to make our-
16 selves understood to the Japanese.

17 Q On what do you base your statement at the
18 end of your affidavit that the Japanese were acting
19 according to the instructions of the Japanese Govern-
20 ment?
21

22 A That is my personal opinion. If there was
23 one plane bombing our vessel I don't think I would have
24 thought that but there was a big group of planes -- but
25 when I saw that there was a big group of planes, then
the possibility of making a mistake was excluded and

1 that is why I came to the conclusion which I gave in
2 my affidavit.

3 RUSSIAN MONITOR: The possibility that they
4 made a mistake was excluded.

5 Q How many members of the crew perished?

6 A Eight men.

7 THE PRESIDENT: I have no further questions
8 on behalf of the Tribunal or any Member of it.

9 GENERAL VASILIEV: May the witness be
10 released on the usual terms?

11 THE PRESIDENT: He is released accordingly.

12 (Whereupon, the witness was excused.)
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1 THE PRESIDENT: Mr. Mattice.

2 MR. MATTICE: May we proceed now with the
3 next case?

4 On behalf of the accused MATSUI, I desire to
5 read now a statement of what we expect to prove.

6 When the defendant MATSUI was a student of
7 the Army Preparatory School, he was deeply impressed
8 with the idea advocated by KAWAKAMI, Soroku, the
9 great senior of the Japanese Army, that the "raison
10 d'etre" of the --

11 THE PRESIDENT: Mr. Mattice, the copies have
12 not yet been handed to the Judges.

13 MR. MATTICE: Very well.

14 THE PRESIDENT: You may proceed now.

15 MR. MATTICE: When the defendant MATSUI was
16 a student of the Army Preparatory School, he was
17 deeply impressed with the idea advocated by KAWAKAMI,
18 Soroku, the great senior of the Japanese Army, that
19 the "raison d'etre" of the Japanese Army is to secure
20 the peace of the Orient. Later on, he came to sympa-
21 thize with the idea of the "principle of Greater
22 Asia" propounded by Sun Wen, "Father of the State of
23 China," that Asiatic peoples must not submit them-
24 selves to the "rule of might," (Hado), and strive
25 against each other but go hand in hand with friendly

1 understanding, according to the "rule of justice,"
2 (odo), which is the time honored moral sense of the
3 Orient. Thus he was putting his heart and soul into
4 the establishment of cordial relations between Japan
5 and China, and the resuscitation and prosperity of
6 Asia. Thus he has been endeavoring to this day for
7 the realization of that idea. He has never been a
8 cabinet member, nor has he ever taken any important
9 post in general politics and military politics.

10 Accordingly, he has, of course, never
11 planned or prepared any aggressive war or carried it
12 into practice as the prosecution alleges. He has
13 never taken part in any plan to commit nor committed
14 any action contrary to international law, treaties,
15 agreements or guarantees. He will testify, for con-
16 venience sake, according to the groups mentioned in
17 the Indictment.

18
19 The defendant MATSUI is charged with offenses
20 in 20 Counts. In Crimes Against Peace under Group
21 One of the Indictment he will deal with in three
22 parts.

23 I. With regard to Counts 1 to 17, inclusive,
24 there is absolutely no fact at all of his having
25 planned and prepared a plan for an aggressive war
because the post the defendant occupied did not

1 enable him to decide or participate in a decision of
2 such an act nor had he any authority to commit such
3 an act.

4 The prosecution has tried to make the witness
5 Chin Te-chung testify that the movement of the Greater
6 Asia doctrine advocated by MATSUI is the same in its
7 principle with the Greater Asia doctrine advocated by
8 Sun Wen.

9 This is the principle of brotherhood of the
10 East and the West; the principle of the co-existence
11 in the world. It never meant an Oriental Monroe
12 Doctrine or a "bloc principle." The idea of this
13 doctrine does not necessarily intend to exclude any
14 European or American people from various areas in
15 Asia. On the contrary, it recognizes with respect
16 the painstaking work of civilization achieved by the
17 European and American peoples in Asia during the past
18 century. Therefore, Europeans or Americans, who
19 understand the civilization peculiar to Asia and de-
20 sire to cooperate with us for the sake of the Asiatic
21 races and their welfare, are our friends and col-
22 leagues. He will testify hereby that the movement
23 conducted by him was but to elaborate on the views
24 manifested in this doctrine of Greater Asia. Accord-
25 ingly, he will make this clear beyond doubt by wit-

1 nesses and exhibits that this doctrine was not ad-
2 vocated in order to plan and prepare for an aggressive
3 war.

4 Furthermore, it will be shown that the Chi-
5 nese Greater Asiatic Association which was created
6 in China was not organized by such a process as men-
7 tioned in the testimony given by the witness Chin.
8 Again, the fact that the positions the defendant occu-
9 pied were such that they did not allow him to partici-
10 pate in planning or preparing such a conspiracy as
11 mentioned in the Counts will be proven by witnesses.
12 The prosecution tried to prove that the defendant had
13 deliberated at Berlin concerning the affairs of the
14 Soviet Union.

15 On this point, although contrary evidence
16 has already been produced by the witness HASHIMOTO,
17 Kingoro, it is also intended that the substance of
18 that meeting be proven clearly by testimony to be
19 produced by the defendant himself. Moreover, the
20 fact will be made clear by witness that at that time
21 he was relieved of the post of the Chief of the Sec-
22 ond Section of the General Staff.

23 II. Concerning the matter of initiating
24 aggressive war charged in Counts 19, 25, and 26, the
25 defendant MATSUI was not in a position or authorized

1 to make any decision, nor to be consulted with, as
2 a reserve officer or as a Cabinet Councillor, during
3 the period of time mentioned in the Counts.

4 III. He is charged with the offense of wag-
5 ing war of aggression according to Counts 27-32 and
6 No. 34-36.

7 The defendant was called out of the reserve
8 on August 14, 1937 and held the post of commander of
9 either the Shanghai Expeditionary Force or the
10 Central China Area Army until February of the follow-
11 ing year, 1938. It was only a sequence of the Japan-
12 ese system that he was called out by order from the
13 reserve and took the post of a commander. Besides,
14 he was still ever desirous of a speedy termination
15 of hostilities and endeavoured to seize every oppor-
16 tunity for peace between Japan and China. This fact
17 will be testified to by witnesses.

18 Apart from the period aforementioned, the
19 defendant was simply an officer in the reserve list
20 enjoying civilian life. He had nothing to do with the
21 matters mentioned in the Counts.

22 In the second group of the Indictment --
23 Murder -- the defendant MATSUI is accused on the bases
24 of the facts set forth in Counts No. 44, 45, 46, 47,
25 51 and 52.

1 ATSUI was the Commander-in-Chief of the
2 Shanghai Expeditionary Army or the Central China Area
3 Army from August, 1937 to February, 1938. During
4 that period ATSUI had never taken part in any common
5 plan to murder POW's, enemy nationals and their
6 people, nor did he give order or permission to the
7 Japanese Army, as described in the Indictment. On
8 the contrary, as the commander, ATSUI did his best
9 to maintain and enforce military and moral discipline.
10 He took every precaution to prevent violations and
11 punished severely anybody who acted without regard to
12 discipline. Furthermore, he stressed harmony and
13 friendship between Japan and China which was his
14 long-cherished idea; tried to minimize as much as
15 possible damages caused by the hostilities, and gave
16 orders to be decent to and protect the good people.
17 The witnesses and evidences will verify his action.
18 At the same time, that he also made every effort to
19 protect the foreign interests and cultural establish-
20 ments will also be proved. As for the protection of
21 the so-called refugee district, any attack on this
22 district was prohibited even before the capture of
23 Nanking, not to mention the fact that after the cap-
24 ture the district was guarded by the Kenpei unit and
25 the Japanese officers and men were strictly prohibited

1 from entering the area. These facts will be clearly
2 established. All our evidence will prove that no
3 atrocities were carried out with the understanding
4 and consent of MATSUI, as referred in the statement of
5 Prosecutor Hsiang. Our witnesses, who were actually
6 on the job of guarding Nanking, will clarify the
7 condition of guarding and the activities of the Japan-
8 ese Army and the fact that there were, besides the
9 casualties caused by fighting, no acts of atrocity
10 as claimed by the prosecution.

11 MATSUI was ill in bed at Soochow when Nan-
12 king fell on 13 December, 1937. He entered Nanking
13 on 17 of the same month, withdrawing from there on
14 21 of the same month, and returning to the headquart-
15 ers in Shanghai. Thus, he stayed in Nanking only
16 for five days. Furthermore, the authority of the
17 Commander-in-Chief of the Central China Area Army
18 was to make plans of unified command regarding the
19 operation, having actually no units under his direct
20 command. The actual movements of the soldiers were
21 controlled by the low-ranking commanders. All these
22 facts were already testified by witness NAKAYAMA in
23 the general phase.

24 That at the time of attacks on the cities of
25 Kwantung and Hankow and in the regions of Khalkin-Gol

1 and Lake Khassan, MATSUI was already retired, was a
2 civilian and was not in a position to carry out these
3 attacks.

4 In the third group -- Convention War Crimes
5 and Crimes Against Humanity -- the defendant MATSUI
6 is accused in every Count. But, we maintain that in
7 regard to the treatment of POW's and civilians, the
8 defendant MATSUI was never in a position with author-
9 ity to handle POW's. He never authorized, permitted
10 or gave order to violate the laws and customs of
11 war, much less proposed to the Japanese Government
12 the suspension of preventing such violations.

13 Our witnesses will testify that, without
14 authority to do anything with the treatment of POW's,
15 as mentioned above, MATSUI asked the authorized units
16 under his command to care for and protect POW's and
17 civilians during the period from August, 1937 to
18 February, 1938, that is, when he was the Commander-
19 in-Chief of the Shanghai Expeditionary Army and the
20 Central China Area Army, and that this request of his
21 was carried out.
22

23 In other periods, he was neither in a posi-
24 tion able to make such request nor was he ever con-
25 sulted or informed of their treatment.

In short, we will show that the defendant was

1 never in such a position as to be able to plan, pre-
2 pare and carry out an aggressive war throughout the
3 whole period covered in the Indictment; that he
4 never acted for such purposes; that there exists no
5 fact that he committed crimes of opening and carrying
6 out an aggressive war; and that he was not involved
7 in any murders, war crimes, or crimes against human-
8 ity.

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1 Now, if the Tribunal please, due to the
2 indisposition of the accused MATSUI, we desire to
3 alter our order of proof somewhat and therefore will
4 pass the first three documents listed, numbers 2, 3
5 and 4; and at this point we will call the witness
6 OSUGI.

7 - - -

8 H I R O S H I O S U G I, called as a witness on
9 behalf of the defense, being first duly sworn,
10 testified through Japanese interpreters as follows:

11 DIRECT EXAMINATION

12 BY MR. MATTICE:

13 Q Will you state your name and address to the
14 Tribunal, please?

15 A My name is OSUGI, Hiroshi; my address, No. 5
16 2-chome, Funatsuki-machi, Kita-ku, Nagoya-shi.

17 MR. MATTICE: May the witness be shown
18 defense document 2238, please?

19 Q Will you look at the document which has been
20 handed you and tell this Tribunal whether that is your
21 affidavit?
22

23 A Yes, this is my affidavit.

24 Q Are the matters and things stated therein true?

25 A They are all true.

MR. MATTICE: I offer this document in evidence,

1 if the Tribunal please.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document 2238
4 will receive exhibit No. 3393.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3393 and received in evidence.)

8 MR. MATTICE: I will now read exhibit 3393
9 omitting the caption.

10 THE PRESIDENT: You can start at paragraph 2
11 of the affidavit.

12 MR. MATTICE: Yes, I intended to start at
13 that point. (Reading):

14 "2. From August 1937 throughout the year
15 1938, as leader of an observation section of the
16 first battalion, the third artillery regiment, the
17 third division, I took part in the campaigns in
18 Shanghai and Nanking areas. I was then artillery
19 2nd lieutenant.

20
21 "3. On the 9th of November 1937, when we
22 were attacking Nanshi, Shanghai, I was specially
23 ordered by the battalion commander to scout the
24 boundaries of the Settlement area so that these zones
25 might be absolutely safe from the range of our fire.
I had the results of our scouting sent to every company

1 on the spot. As far as I know, we caused no damage to
2 the settlement area during our attack on Nanshi.

3 "4. After the Nanshi campaign, my unit
4 assembled for readjustment at Taitasang and started
5 for Nanking on about the 2d of December. There were
6 hardly any fighting on the way to Nanking and never
7 saw a totally destroyed village between Taitasang and
8 Nanling. We did see a few houses partially destroyed
9 or burnt but I never saw nor heard of any houses that
10 were destroyed by the Japanese soldiers. During our
11 march, there were enough houses for us to quarter at,
12 so we did not have to camp out.

13 "5. I have forgotten the name but at a
14 village on our way to Nanking I saw a pile of rice
15 burnt and abandoned. Upon inquiry I was explained by
16 the villagers that it had been burnt by some retreat-
17 ing Chinese soldiers who did not want it to be taken
18 away by the Japanese army. After this, I observed the
19 destroyed houses on the way more carefully and found
20 that most of them were storehouses and other provision
21 depots.
22

23 "6. On about the 11th of December 1937, I
24 was ordered to scout for the line of advance and suit-
25 able places for position for our army. I left my unit
at Chiyun and went alone to the south side of Nanking.

1 I think it was on the evening of the 13th that I
2 entered within the walls of Nanking through the south
3 gate of the town. There were many scattered dead
4 bodies of both Japanese and Chinese. Among them I
5 saw the body of a Japanese soldier, tied to a tree
6 with several bullets in his body. I knew at a glance
7 that he had been captured and slaughtered by the
8 Chinese soldiers. I cut the rope and let the body
9 down on the ground. Around the city walls there were
10 many dead bodies of Chinese soldiers but not those of
11 civilians. I went within the walls only about a kilo-
12 metre from the city gate but I saw Kempei guards
13 already posted at the banks and government offices
14 with signs of off limits to Japanese soldiers. At the
15 same time I noticed a very few residences damaged in
16 the town. It was the first time for me to see the
17 city of Nanking, but I could see that as a whole it
18 preserved its old condition.

19 I saw no traces of fire there.

20
21 "7. Toward the end of the battle of Shanghai,
22 we repeatedly received instructions from the higher
23 command regarding the following matters which I enforced
24 among my men:

25 "Observe strictly military and moral disci-
pline.

"Treat the Chinese people kindly.

"Observe International Laws.

"Do not cause international complications.

"Be prudent in behavior keeping in mind that we are under observation by the powers.

"8. On the 13th of November, I joined my unit at Tangshuichen and led them to Tushanchen to the south of Nanking. At this time, at the instructions of the higher command, I strictly forbade my soldiers to go out on passes. Even going out on official business, the soldiers were ordered not to enter the southwest quarters of the city of Nanking as they were set aside as refugee's quarters. At that time, I heard from my colleagues that this prohibition was due to the danger of the armed defeated enemy soldiers in civilian clothes who had sought refuge in these quarters. As I had had some dangerous experiences from the Chinese plain-clothes soldiers in the battle of Shanghai, I had my men take special caution never to approach any place where defeated Chinese soldiers were likely to be in hiding. My unit eventually marched westward without entering the city walls. While I was in the vicinity of Nanking, I had never heard of such stories as unlawful act and massacres of Chinese people frequently said to be committed by

the Japanese soldiers.

1 "9. At the beginning of 1938, my unit was
2 stationed near Chinking. One day I visited a famous
3 temple near by with my battalion commander. In a
4 hall on the second floor of the temple building there
5 was a great collection of books, all of which had been
6 sealed by the Kempei with notes to the effect that
7 taking out any of these books was strictly forbidden.
8 Offenders, including the Japanese soldiers, will be
9 duly punished.

10
11 "10. About that time, when a soldier of an
12 adjacent company was arrested by the Kempei, I accom-
13 panied the commander of the company to take over the
14 arrested soldier. The detachment commander of the
15 Kempei, however, told us that the soldier had committed
16 rape and refused to hand him over because of the order
17 of Commander in Chief MATSUI to maintain strict military
18 discipline and to severely punish any offenders.

19 "11. Our greatest trouble throughout our
20 operations was the Chinese plain-clothes soldiers, who,
21 when pressed hard, hid their weapons and pretended to
22 be civilians but the moment our eyes were off, they
23 came challenging us. As it was utterly impossible to
24 tell them from real civilians, when they were without
25 arms, we, at last, resorted occasionally to such a

1 method as gathering all the village people in one
2 place and keeping surveillance over them, as occasion
3 demanded. And as soon as the plain-clothes soldiers
4 surrendered themselves or to our authority, public
5 order was regained. We set the common people free and
6 turned the surrendered soldiers over to our Kempei."

7 Signed and sworn to.

8 BRIGADIER NOLAN: There will be no cross-
9 examination.

10 MR. MATTICE: May the witness be excused on
11 the usual terms?

12 THE PRESIDENT: He is excused accordingly.

13 (Whereupon, the witness was excused.)

14 THE PRESIDENT: We will adjourn until half-
15 past one.

16 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

MR. MATTICE: We next call the witness OUCHI.

THE PRESIDENT: Yesterday some witnesses were
called and were not cross-examined. In such cases it
would save time to rely on the affidavit unless there
is some good reason.

MR. MATTICE: This witness is of that character
as I understand.

THE PRESIDENT: We want to avoid swearing any
witnesses who are not going to be cross-examined.

BRIGADIER NOLAN: May it please the Tribunal,
I have informed my learned friend of the names of the
witnesses that I don't intend to cross-examine.

THE PRESIDENT: Thank you. Is this witness one?

MR. MATTICE: This is one.

THE PRESIDENT: No need to swear him.

MR. MATTICE: We offer in evidence then, if the
Tribunal please, defense document 2668 which is the
affidavit of OUCHI, Yoshihide.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2668 will

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1 receive exhibit No. 3394.

2 (Whereupon, the document above referred
3 to was marked defense exhibit No. 3394 and
4 received in evidence.)

5 MR. MATTICE: I will now read exhibit 3394,
6 omitting the caption and starting with the paragraph
7 numbered 2:

8 "Since our landing at Woosung at the end of
9 September, 1937, I had taken part in the battles between
10 Shanghai and Nanking Areas as the Acting Commander of
11 the 7th Battery of the 9th Mountain Artillery Regiment
12 of the 9th Division in the Expeditionary Force to
13 Shanghai. At that time, my rank was 2nd Lieutenant of
14 Artillery.

15 "Our regiment assembled in the vicinity of an
16 air-field west of Shanghai after crossing over the
17 Soochow River about the 3rd November of the same year.

18 "That area was rather devastated owing to
19 cannonade and bombing. Our regiment was then still in
20 battle position and the military discipline was main-
21 tained with great strictness and severity.

22 "At that rendezvous, we were given the follow-
23 ing instruction by the Chief of Staff: 'As your regi-
24 ment will be sent presently to the zone where various
25 foreign rights and interests exist, each commander ought

1 to have his men strictly at his command and to endeavour
2 for the maintenance of the military discipline.'

3 "I then gave my men a caution in order that
4 the above instruction might be thoroughly understood by
5 them and there was no one under my command who violated
6 the discipline at the rendezvous and its vicinity.

7 "There were several women remaining in a
8 village (the name of it was forgotten) over against the
9 rendezvous, so the stepping into the area was strictly
10 forbidden.

11 "Thereupon, one night, red and green signal
12 shells were shot up from within the village and then
13 the shower of enemy's shells were poured down on the
14 quarters of our unit.

15 "So we searched all through the village on the
16 following morning, but we could not find even a single
17 man. Accordingly, we thought it necessary henceforth
18 to take strict precautions even against a woman.

19 "About 14th November in the same year, our
20 unit advanced as a first-line troop by the order to
21 advance to Soochow and we scarcely met enemy resistance
22 till we got there. Some villages along the road to
23 Soochow were for the most part reduced to ashes, few
24 houses had the roof left and there were no inhabitants
25 to be seen in these villages.

1 "As our unit advanced at the head, we never
2 could have done such violence and I know such destruction
3 had been done by the Chinese troops as they began to
4 retreat.

5 "I strictly prohibited incineration of houses
6 and looting both for the Chinese people and for the
7 Japanese troops coming after and perhaps owing to that
8 order, there were much satisfactory results without
9 any accident brought about.

10 "We entered Soochow with no resistance of the
11 enemy, so the streets were not destructed at all except
12 a slight damage by air-bombing.

13 "In this town also the removal of goods by
14 individual soldiers was prohibited and the preparation
15 for requisition was being conducted by intendance officers
16 but as our unit was ordered to advance westwards about
17 17th of November, the said requisition was not executed,
18 and all the soldiers were marching even with their
19 rationed food cooked in their mess-tins.

20 "We encountered a fierce resistance of the enemy
21 in the mountainous zone around 30 kilometres east of
22 Nanking and the said zone was so well prepared and
23 defended by the Chinese troops who had been specially
24 trained against the Japanese army as the hypothetical
25 enemy, that their resistance to us was never so fiercely

made.

1
2 "Our unit was advancing again at the head and all
3 the Japanese troops were obliged to bivouac, as the houses
4 to be used for their quarters in this vicinity had been
5 all burnt down by Chinese troops.

6 "Then we received an oral order as follows:

7 "The aim and object for advance of our
8 troops is the wall of Nanking and as regards the entry
9 into the city, you shall have another order.'

10 "We marched into the air defence school out-
11 side of the Kwanghuamen at dawn on the 9th of December
12 after successive desperate fighting and we found that
13 lots of houses had been destructed and devastated to
14 obstruct our advance. Especially those houses in the
15 vicinity of the air field were burnt down by incendiarism.

16 "Above stated destruction was surely made by
17 the Chinese troops, as there was no Japanese troops that
18 marched ahead of us.

19 "On the night of 9th of December there was
20 transmitted to us the order stating that if the enemy
21 would not surrender at noon the following day (10
22 December), we should attack on the City of Nanking and
23 at the same time we were given the following restriction,
24 and caution.
25

"1. As the City of Nanking is the capital of

1 the Republic of China you should take care not to send
2 your shells so far as to fall within the city though
3 it is allowed to bombard the enemy on the wall.

4 "2. Take particular care not to drop your
5 shells upon the foreign rights and interests and the
6 refugee quarters in the city. (I had the map of the
7 City of Nanking then but I have not it now with me and
8 there are none remaining in the First Demobilization
9 Bureau as they were destroyed by fire.)

10 "At the above mentioned order I racked my
11 brain from the technical point of view of firing but
12 fortunately I could attain the purpose as it was
13 mentioned in the order.

14 "Our attack on Nanking was launched at about
15 2 o'clock on 10 December and we captured the wall of
16 the Kwanghuamen but it was not permitted to enter the
17 city and only the military police as well as some small
18 units entered there.

19 "On that day, near the wall was a burnt body
20 of a man of unknown nationality; it was still breathing
21 faintly.

22 "On seeing this, Major HAGA, our Battalion
23 Commander was enraged and gave us a strict order to
24 find out the offender, so I also stopped the preparation
25 for fighting, assembled my men, gave a warning and

1 investigated the criminal, but there was no offender
2 among the men under my command.

3 "The surgeon who inspected the corpse decided
4 that it seemed to have been committed at least ten hours
5 before -- prior to our entry into the city, and that a
6 Japanese soldier must have been captured by the Chinese
7 troops, who had burnt him to death.

8 "Our unit turned back to Tansuichen during
9 that night.

10 "We entered into the City of Nanking on 15th
11 of December and lodged several days at the Chinese
12 Barracks where each unit mounted guard and all the
13 soldiers were prohibited to go out; so none of them
14 went out of the barracks except officers on official
15 duty. And it was so with all the units in our division.
16 Consequently, there was not a single criminal, who was
17 charged of an illegal action.

18 "An officer, a friend of mine, told me that
19 there seemed to have been many refugees in the refugee
20 quarters, but it was guarded by the military police; so
21 even an officer, not to speak of a private, was not
22 permitted to enter there.

23 "I saw a great deal of Chinese army equipments
24 were thrown away in disorder on the streets when I went
25 there on official duty, but I did not find out any fire

1 disaster except some ruins of small fires and the street
2 were almost safe from destruction.

3 "I saw a few corpses of Chinese soldiers at the
4 area along the Yangtze River, but never found a corpse
5 which was massacred.

6 "We turned back eastward on around 20th of
7 December."

8 Signed on the 29th day of September by the
9 deponent, OUCHI, Yoshihide.

10 The next offer defense document 2627 which is
11 the affidavit of WAKIZAKA, Jiro, with this deletion:
12 that the sentence beginning with the words "A friend
13 of mine told me" at the bottom of page 1 and to the
14 end of that paragraph, and the paragraph at the bottom
15 of page 4. So that the document with the exception
16 of those two paragraphs is offered in evidence. There
17 will be no cross-examination on this as I understand it.

18 THE PRESIDENT: The second part of paragraph 6,
19 is that what you mean? "The number of the buried" down
20 to "preceding battles".

21 MR. MATTICE: Second part of paragraph 6.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 2627
24 will receive exhibit No. 3395.

25 (Whereupon, the document above

referred to was marked defense exhibit

No. 3395 and received in evidence.)

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1 MR. MATTICE: I will now read exhibit 3395,
2 omitting the caption and beginning with paragraph
3 No. 2.

4 "In September 1937 I was serving as com-
5 mander of the 36th Regiment, 9th Division. At that
6 time I was colonel. Orders for the mobilization of
7 my regiment was issued on around September 20, 1937,
8 and I took part in the engagements in Shanghai and
9 Nanking areas under command of the Expeditionary
10 Force to Shanghai.

11 "The commander of the Expeditionary Force to
12 Shanghai was General MATSUI.

13 "3. Upon my arriving at Shanghai, instruc-
14 tions of the general were often passed to me through
15 my senior. The general on every possible occasion
16 delivered instructions saying that military discipline
17 should be strictly maintained, innocent people be
18 pacified and protected, and foreign interests be safe-
19 guarded. Then I made efforts to make his instructions
20 thoroughly understood by my officers and men, and
21 gave them warning so that such misdeeds as incendiary,
22 murder, looting and rape may not occur among them.

24 "While the Japanese force was advancing toward
25 Nanking from Shanghai, my units always took the lead,
and noticed that not a few houses of villages along

1 our route had been burnt down, destroyed, or looted.
2 The Chinese natives told us that this was due to the
3 incendiary and destruction caused by the so-called
4 Field-Clearing-Tactics customarily taken by the
5 Chinese forces when they were about to retreat, in
6 order to check the advancement of the Japanese forces.
7 They also told us that, on the other hand, both Chi-
8 nese soldiers and people looted these houses, as was
9 usually the case with them in a war time. We en-
10 deavored to preserve houses and other facilities for
11 the purpose of pacifying and protecting the Chinese
12 populace, and also for the convenience of our follow-
13 ing units, far from undertaking to burn up and destroy
14 them. This was a commonsense of the Japanese force
15 though higher authorities also instructed so.

16 "As soon as my units captured Shunwachen,
17 some 40 kilometers southeast of Nanking at about 4 p.m.
18 on December 8th, my units immediately began to press
19 hard on the enemy, hurriedly marched all night, and
20 at dawn on the 9th reached Shanctfanctchen, south
21 of the Kwancthuamen. It was pitch dark that night.
22 Before we could ascertain in which direction Nanking
23 was located, suddenly two pillars of big flames rose
24 high up in the north, as if they were to scorch the
25 sky. And I guessed they rose up in the direction of

1 Nanking and made them a target of our advancement.
2 My guessing turned out right. Later, for a few days
3 before we captured Nanking we could see, day and
4 night, flames rise up within the walls. At that time
5 the bombing of the Japanese planes were not so intense
6 and, on the other hand, there was no bombardment of
7 our artillery corps. Therefore, we concluded that
8 either the Chinese Field-Clearing-Tactics or acci-
9 dental fires, as occurred in a state of confusion,
10 were presumably responsible for these flames. Hither-
11 to the Japanese forces were strictly warned against
12 accidental fires. Soon after the capture of Nanking
13 my units were engaged in extinguishing the first of
14 the burning houses. There happened no cases of in-
15 cendiary on the part of the Japanese Army, and my
16 units never caused an accidental fire.

18 "My units captured Kwancthuamen in the early
19 morning of December 13th. A furious fighting went on
20 at this gate and, consequently, a large number of the
21 killed and the wounded were reported on both sides.
22 Immediately after the capture my units took care of
23 the killed and the wounded. Gathering up the corpses
24 of both Japanese and Chinese forces to the same
25 place, located half way between the Kwancthuamen
~~and the Tuncttsimen, my units erected a grave-post~~

1 and enshrined these sacrifices there. A sutra
2 chanting was served for them by our military monk, and
3 heavenly bliss was prayed by them over a day and
4 night during which these remains were being buried.

5 "When I made a tour of inspection within
6 the walls of Nanking on December 15th, I wanted to
7 see the real state of things in the refugees' sec-
8 tion. The gendarmes, by whom the section was strictly
9 guarded, however, refused my request, saying that
10 without a special permission, even a commander was
11 prohibited from entering there. Then I was unable
12 to inspect the inside of that section. On that
13 occasion, and also later, I never heard of any illegal
14 behaviors caused by the Japanese force inside the
15 section.

16 "A certain house was examined with a view
17 to accommodating the headquarters of our regiment.
18 When a certain lieutenant, bearer of the regimental
19 colors, entered that house in order to examine an
20 air raid shelter attached to it, he was fired on by
21 revolvers from inside. He reported to me that he then
22 immediately accepted the challenge with his pistol,
23 with a result of shooting two Chinese soldiers to
24 death. I at once instructed officers and men under
25 my command to take precaution against the remnants of

1 the Chinese forces, and not to drop in any Chinese
2 private houses.

3 "Immediately after my units entered Nanking,
4 a certain paymaster lieutenant found a Chinese ladies'
5 shoe left off on the way while he was out to dis-
6 charge an official business. He brought that shoe
7 back to his quarters in order to show its wonderful
8 fashion to his comrades. A gendarme, however, found
9 out this fact and submitted a document to the court-
10 martial on suspicion of plunderage. The lieutenant,
11 shedding tears in my presence, asserted his innocence,
12 and as I admitted him to be innocent, I reported to
13 my superior official to that effect.

14 "I remember that this case was finally found
15 to be a minor offense not liable to prosecution. The
16 supervision of the Japanese gendarmes in Nanking was
17 extremely strict, and no consideration was shown even
18 to any minor offenses.

19 "General MATSUI, immediately after a memorial
20 service for the dead was held on December 18th, ad-
21 monished us, senior officers, that military dis-
22 cipline should be more strictly maintained, and the
23 prestige of our Imperial Army be raised and efforts
24 be made to realize friendly relations between Japan
25 and China without delay.

1 "After the fierce battles to capture Nanking,
2 I was deeply struck with this righteous and benevolent
3 mind of General MATSUI, and, in later operations and
4 defenses I always endeavored to exalt this spirit more
5 and more. And after my return home I dedicated a
6 statuette of 'Kannon' (T.N. the Goddess of Mercy)
7 to the" -- I am unable to read the name of the temple --
8 "located in Fukui Prefecture, in order to pray for
9 the repose of the soul of both Japanese and Chinese
10 killed in battles and for the peace of the Orient.

11 "I was in Nanking until the morning of Decem-
12 ber 24th. No criminal was found among those under my
13 command. The natives became very familiar with the
14 Japanese soldiers; some worked as cooks, and no one
15 entertained fear toward the Japanese soldiers. And
16 I never heard any shot inside or outside the walls
17 after the fall of Nanking. If a machine gun was fired,
18 its report ought to be heard, but I never heard such
19 sort of sound.
20

21 "After the hostilities in Nanking was over,
22 my units undertook the responsibility of defense of
23 Kiating. When one night a guard of the battalion
24 headquarters under my command poured oil into a lamp,
25 an oil can caught fire owing to his mistake, and
there happened a fire by which the quarters burned

1 down. On the charge of this accidental fire I was
2 subjected to a reprimand in accordance with the Army
3 Disciplinary Law. The battalion commander was put
4 on a good behavior, and the guard commander and that
5 guard was heavily imprisoned. By order of Commander
6 MATSUI military discipline was maintained in such a
7 manner, and even a bit of unlawful act was never over-
8 looked.

9 "Besides the above I do not remember any un-
10 lawful act which occurred among my units.

11 "On this 12th day of September 1947" -- and
12 signed by the deponent, WAKIZAKA, Jiro.

13 I next offer in evidence, if the Tribunal
14 please, defense document 2714. I am informed there
15 will be no cross-examination, and we will, therefore,
16 not call the witness.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 2714 will
19 receive exhibit No. 3396.

20 (Whereupon, the document above re-
21 ferred to was marked defense exhibit No. 3396
22 and received in evidence.)

23 MR. MATTICE: I will now read exhibit 3396,
24 omitting the caption and beginning with the paragraph
25 numbered 2.

1 "About the middle of September 1937 I joined
2 the Shanghai Expeditionary Army, took the field as
3 Battalion Commander of the 1st Battalion of the 19th
4 Infantry Regiment, and participated in the siege
5 of Nanking. At the time I held the rank of a major.

6 "Towards the end of September 1937 we landed
7 near Woosung, Shanghai, and participated in the
8 battle.

9 "In the middle of November we were ordered
10 to pursue the enemy in the direction of Soochow with
11 strict instructions from superior not to destroy or
12 burn houses unless absolutely unavoidable for opera-
13 tional reasons. I instructed my subordinates of this
14 and looked over them.

15 "Aside from the railway station and its vicin-
16 ity being destroyed by bombings, Soochow was left
17 intact. One of the natives there told me that the
18 city was kept from destruction because the inhabitants
19 of the city pleaded to the Chinese Army with money
20 to retreat from the city without fighting in the city
21 or destroying and plundering it.

22 "At a place 1 li (TN: 2.5 miles) east of Wushin
23 and inside its city limits, the resistance of the Chi-
24 nese forces caused a battle to break out which caused
25 some damages to the houses nearby. Upon my inspection

1 after the battle I found some of the contents of the
2 provision warehouse had been carried off. I there-
3 upon posted guards at once to guard the warehouses
4 and prohibited the further removal of the contents by
5 any unauthorized individual. After having reported
6 the situation to the Intendance Department of the
7 division, we turned the place over into their hands.
8 This sort of step had been ordered by superiors long
9 before, and we acted accordingly, not only at Wushin
10 but everywhere.

11 "6. A fierce battle was fought at a place
12 which lies between the Mopan mountain range and Nan-
13 king. Almost all the houses there had been burned
14 down before the occupation by the Japanese forces and
15 the marks of plunder were strikingly evident. Nothing
16 was left there to be utilized by the Japanese forces.
17 We camped in tents, or even without them, and made
18 the advance with no other provisions than our field
19 rations.
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1 "7. In our drive against Nanking the movement
2 of the army was strictly controlled and no arbitrary
3 action was allowed even to capitalize on opportune
4 operationed chances. But more detailed instructions
5 were given by about December 8 highest authorities regard-
6 ing the attack upon Nanking. According to the schedule
7 our unit was to begin the attack on Yuhuatai about
8 December 10, turn to Kwanhwamen on the afternoon of
9 the 12th and proceed into the attack from about the
10 13th. But upon receiving the news of the fall of Nan-
11 king, we only engaged in a clean-up campaign near the
12 gate and then turned back to Tangsuchen on the same
13 night. We entered Nanking on the 15th, deployed and
14 were billeted in houses in the southeast part of Nan-
15 king. Almost all the houses in the city were left
16 undestroyed. There were some small fires around the
17 billeting area, but none were started by my unit. As
18 the higher authorities had warned us against fire
19 incessantly before and after our entry into Nanking,
20 my officers and men were especially careful. Upon entry
21 into Nanking, I prohibited my men to go out into the
22 city except on official errands and I instructed them
23 to respect and protect foreign properties and their
24 rights and not to inflict any harm on the Chinese folks
25 but to endear them when they went on those official

1 errands. I placed a caretaker of fire at every billet
2 to whom I gave stern warnings and notices concerning
3 fire prevention. This step was taken at every front
4 every time we billeted.

5 "8. After my unit's entry into Nanking, we were
6 billeted in such a way as to be able to start movement
7 of pursuing the enemy at any time in accordance with
8 the instructions given to us from higher up. Our
9 actions were as follows during our stay at Nanking:

10 "December 13, entered Nanking through the
11 Kwanghuamen gate, mopped up the remnants of the enemy
12 east of the creek that runs from south to north on the
13 west side of the Tunktsinmen gate; pushed on to
14 Tangshuichen that night.

15 "December 14, mopped up around Tangshuichen
16 and returned to Nanking about 7 p.m. the 15th.
17 December 16, the ceremony of reading the Imperial
18 Rescript was held. As all the officers and men were
19 suffering from lice, we cleaned up their personal
20 effects with boiling water. On the 17th the triumphant
21 entry of the Commanding General, MATSUI, into Nanking
22 took place. Worked on moving our camping quarters.
23 On the 18th the army's memorial services for the dead
24 were held. Moving of camping quarters continued. On
25 the 19th regimental memorial services were held on the

1 20th, guard escort for the commanding general of the
2 army on the occasion of his inspection of the battle-
3 field and hospitals; on the 21st and 22d cleaned up
4 the battlefield of Yuhuatai and searched for missing
5 persons; on the 23d prepared for our departure. On
6 the 24th we moved to Kunshan. In addition to the
7 above-said daily routines, various reports of battles,
8 communicating to the bereaved families, paying of
9 allowances, soldier saving deposits, communicating
10 the families and receiving and distributing mails and
11 packages among the soldiers from the homeland of
12 several months, etc., all of which took so much time
13 that we could not even have a rest.

14 "9. When we were billeted at Nanking, going
15 in and out of the billets was very closely guarded.
16 I got instructions to train the sentinels in the way
17 of questioning the people, so that they might not
18 cause trouble to the law-abiding natives on account
19 of language difficulties. I obeyed to the letter. No
20 superior ordered to plunder or render violence, much
21 less the Commanding General of the Army MATSUI. On
22 the contrary, we were directed on December 19 by
23 General MATSUI and on the 22d by our regimental com-
24 mander to be kind and good towards Chinese folks so
25 that they would place a trust in the Japanese Army.

1 "10. About December 19 I went inspecting along
2 the road which runs from Chungshanru to Hsiakwan on
3 horseback and found no damage was done to the houses
4 there. Before our entry into Nanking rumors were
5 current of the awful destruction of Nanking caused by
6 the Japanese Army's bombings, but actually witnessing
7 it, I was able to confirm that it was untrue. I found
8 no corpses of Chinese soldiers at Hsiakwan either. On
9 December 24 my unit turned back to the east, reached
10 Kunshan about January 5, and was ordered to stay there
11 for garrison duty.

12 "11. During the time of our garrison at
13 Kunshan, a body of American pastors and medical men
14 came over to inspect churches and hospitals there on
15 the introduction of Lieutenant Colonel OKA of the
16 Special Service Division at Shanghai. They were
17 pleased and expressed gratitude to find those institu-
18 tions had suffered only small damages and were in good
19 order and entrusted them to my custody. After having
20 a luncheon together we took a souvenir picture and
21 parted. For about a month after that I also did gar-
22 rison duty at Soochow. There the houses were standing
23 side by side as they ever were. The streets were
24 well arranged and trade was flourishing. No illegal
25 conduct of the Japanese Forces were witnessed there

1 and we were in harmonious terms with the native inhabi-
2 tants. Recreation facilities were so well provided
3 for the Japanese Army and not one irregularity occurred.

4 "On this 8th day of October, 1947."

5 Signed by the Deponent, NISHIJIMA, Takeshi.

6 I next offer in evidence, if the Tribunal
7 please, defense document 2715, and in connection with
8 it we will also offer, because they relate to the same
9 matter, defense document 2764.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 2715
12 will receive exhibit No. 3397. Defense document 2764
13 will receive exhibit No. 3397-A.

14 (Whereupon, document 2715 was marked
15 defense exhibit No. 3397 and received in evi-
16 dence. Document 2764 was marked defense
17 exhibit No. 3397-A and received in evidence.)

18 MR. MATTICE: Reading first exhibit 3397,
19 which is titled, "Instructions":

20 "I was deeply moved by the gracious words that
21 His Majesty was pleased to grant me again at this
22 time when the Central China Expeditionary Forces car-
23 ried at one charge the walled city of Nanking, capital
24 of China, by dint of the fierce pursuit following the
25 battle of Hutung, and thus have accomplished this

1 historically splendid undertaking. It was thanks to
2 the very hard fighting and exertions on the part of
3 the soldiers who participated in the fighting that
4 such a humble one as I am could discharge his duty
5 and meet His Majesty's expectations. Therefore, I can-
6 not but express my deep gratitude for the efforts that
7 have been made.

8 "It should be borne in mind, however, that
9 our goal is a long way off, and the responsibility
10 assumed by the army is all the more heavy, so that you
11 should not relax in your efforts in the least. Hence
12 all of you should strive to render all the more ser-
13 vice to the state. All officers and men should realize
14 the true significance of command, should enforce
15 stricter military discipline, should concentrate their
16 energy on education and training based on experience,
17 and should strive for the perfection of the fighting
18 strength of the army, thereby making the preparations
19 for the next military operation complete and wanting
20 nothing. At the same time, you should be on stricter
21 guard against possible enemy attack, should keep mili-
22 tary secrets as best you can, and should maintain
23 public peace and order, thus affording no opportunity
24 for recalcitrants to arise. On the other hand, with
25 the long-range view of the future prosperity of the

1 Orient and in accordance with the traditions of Japan,
2 you should be merciful to the Chinese masses groaning
3 under misgovernment, and should cooperate in pacifying
4 them through guidance and enlightenment. The principle
5 of the Imperial Army, of course, remains the same
6 irrespective of whether fighting is carried on or not.
7 Every one of you should be cautious with regard to
8 conduct on your part and should exert your utmost
9 efforts to maintain and augment our splendid battle
10 results, thereby enhancing the prestige of the Imperial
11 Army.

12 "The above are my instructions.

13 "On December 18, 1937, MATSUI, Iwane, Com-
14 mander of the Central China Expeditionary Forces."
15

16 Exhibit 3398 is the certificate which is
17 attached to that, and I will not read that unless the
18 Tribunal wishes it.

19 THE PRESIDENT: 3397-A.

20 MR. MATTICE: We now offer defense document
21 2667.

22 May we call the witness, NAKASAWA, Mitsuo.
23
24
25

1 M I T S U O N A K A S A W A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. LATTICE:

6 Q You may give your name and address to the
7 Tribunal, please.8 A My name is NAKASAWA, Mitsuo; my address,
9 Sakai-Mura, Higashi Yatsushiro Gori, Yamanashi Pre-
10 fecture.11 MR. LATTICE: May the witness be shown defense
12 document 2667, please?

13 Q Is that your affidavit, Mr. NAKASAWA?

14 A Yes.

15 Q You have signed it, have you not?

16 A Yes.

17 Q Are the matters and things stated in that
18 affidavit true?

19 A Yes, they are true.

20 MR. LATTICE: I offer it in evidence, if
21 your Honor please.

22 THE PRESIDENT: Brigadier Nolan.

23 BRIGADIER NOLAN: May it please the Tribunal,
24 may I make objection, please, in paragraph 7, page 4,
25 at line 8, to the sentence beginning with the words,

1 "Judging from the circumstances . . ."

2 THE PRESIDENT: I cannot find it, Brigadier.

3 BRIGADIER NOLAN: And in line 13 of the
4 same paragraph, to the sentence beginning --

5 THE PRESIDENT: That is the third line, not
6 the eighth.

7 BRIGADIER NOLAN: I mean line 3 of paragraph
8 7, commencing with the words, "Judging from the cir-
9 cumstances . . ."

10 THE PRESIDENT: You object to the whole of
11 the balance of the paragraph?

12 BRIGADIER NOLAN: Just to that sentence there.

13 THE PRESIDENT: Yes.

14 BRIGADIER NOLAN: And to the sentence in
15 line 13, in the same paragraph, commencing with the
16 words, "Consequently, it was also quite obvious . . ."
17 That is line 8 of paragraph 7.

18 Our objection is based on the grounds that
19 these are conclusions drawn by the deponent and so is
20 usurping the function of the Tribunal.
21

22 MR. MATTICE: I think the objection is well
23 taken, if the Tribunal please, and the two sentences
24 of that paragraph may go out.

25 THE PRESIDENT: The document is admitted, with
the exception of those two sentences, on the usual

terms.

1 BRIGADIER NOLAN: May I ask, Mr. President,
2 if you please, that the first sentence of the second
3 paragraph of section 4 on page 3 -- first and second,
4 the first and second paragraphs, be referred to the
5 translation board, as there seems to be some doubt
6 about the accuracy of the translation.
7

8 THE PRESIDENT: They are referred accordingly.

9 CLERK OF THE COURT: Defense document 2667
10 will receive exhibit No. 3398.

11 ("Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3398 and received in evidence.)

14 MR. HATTICE: I will read exhibit 3398,
15 omitting the caption, starting with the paragraph
16 numbered "1."

17 "1. I am a former lieutenant-general, and
18 from November 1937 to the end of January 1938 partici-
19 pated in the siege of Nanking as Chief of Staff of
20 the 16th Division under the command of the Shanghai
21 Expeditionary Force.

22 "2. While the 16th Division was carrying out
23 a pursuit attack towards Chuyung in December 1937,
24 orders were received to attack Nanking on or about
25 December 3rd, and started its advance but on or about

1 the 8th of the same month was ordered to stop further
2 advance at a point three or four kilometers from Nan-
3 king. Furthermore, we were ordered that, as Nanking
4 was the capital of China and there were many foreign
5 interests, cultural and historical remains, and
6 cultural institutions, not to destroy them, and, that
7 at the time of triumphal entry into the city, to
8 send a select unit in order to placate and treat the
9 citizens kindly and to maintain order. I had this
10 point made known thoroughly with the respective units.

11 "3. What troubled us most during the attack
12 on Nanking were the battle fought in the vicinity of
13 Tsuchinshan where the 33rd Regiment faced the enemy
14 and that fought in the vicinity of Chungshan-ling,
15 the divisions main front. The division paid no small
16 price to capture Nanking without damaging Tsuchinshan
17 and the Hsiaoling of the Ming Dynasty which were
18 specified in the orders. The Chinese units occupying
19 the vicinity of Chungshan-ling were not only the
20 greatest obstruction to the divisions front, but also
21 by firing at the rear and flank of the 33rd Regiment,
22 which was attacking Tsuchinshan, they harassed the
23 regiment to no end. Still, our Army had to stand
24 the disadvantage of refraining from using artillery
25 pieces, not to mention of the use of heavy infantry

1 weapons. These facts hindered our advance generally
2 and we were forced to suffer a great loss needlessly.
3 However, because of our sacrifice, Chushan-ling and
4 Hsiaoling of the Ming Dynasty were kept intact, and
5 the regiment, which finally occupied Tsuchinshan in
6 spite of the difficulties, was given a letter of
7 appreciation from the army commander after the cam-
8 paign.

9 "4. The 16th Division, which had reached the
10 walls of Nanking at Chungshan-men at the dawn of
11 December 13, 1937, sent in about two battalions into
12 the city and had them sweep the area previously in-
13 dicated, that is, the area embracing Raipingshan,
14 Shanyuan-men, Hsiakwan and Chungshan Road.

15 "The sweeping was continued on the next day
16 also. On the fifteenth of December the 16th Division
17 headquarters and a small unit entered the city, but
18 no inhabitants had evacuated from the area under the
19 charge of the division. On December 23rd dispositions
20 of troops were changed. A part of the 16th Division
21 was given new disposition of guarding the inside and
22 outside of the city, substituting another unit which
23 entered the city previously, and remained in Nanking
24 until about January 20th of the following year.
25

"5. The refugees' area became, after the

1 change in disposition of December 23rd, included in
2 the garrison district of the 16th Division. The area
3 was marked out clearly at the time of entry and was
4 guarded strictly simultaneously with the entry and
5 even officers were not permitted to go in or out of
6 this area unless they had special permission. After
7 the Central China Area Army and the Commander of the
8 Shanghai Expeditionary Army entered the city, instruc-
9 tions were often issued to maintain strict military
10 and moral discipline and I passed these orders to
11 every unit.

12 "6. At the time of the occupation of Nan-
13 king all the responsible administrative personnel had
14 already fled from the city. There wasn't a single
15 administrative personnel remaining, and consequently
16 the Japanese troops could find no person with whom they
17 could negotiate in regard to maintaining peace and
18 order. Indeed, the situation was such that our troops
19 had no other alternative but to take over into their
20 hands the maintenance of order. It was extremely in-
21 convenient for both the Japanese troops and the Chinese
22 inhabitants.
23

24 "7. After entering the city we found on the
25 highway from the Chungshan-men of the city limits of
Nanking to Hsiakwan a great deal of discarded uniforms,

1 sabers, ammunition, rifles, and caps. And yet when we
2 made our sweep inside of the city limits of Nanking,
3 there were no Chinese to be seen with the exception of
4 the refugee area. Therefore, being unable to trust
5 that all the inhabitants in the refugees' area were
6 peaceable citizens, the necessity of investigating
7 the inhabitants of the area came about.

8 "8. Thus, a Sino-Japanese Joint Commission
9 was organized on Dec. 25th to investigate the inhabi-
10 tants.

11 "The method of investigation was to interro-
12 gate or inspect the Chinese one by one in the presence
13 of both Japanese and Chinese and judge whether he was
14 a straggler or not by consultation of the Japanese
15 soldiers and the Chinese committees; for the general
16 people, certificates of residence were issued. Those
17 who were determined to be stragglers by these means
18 were turned over to the Headquarters of the Shanghai
19 Expeditionary Force. Accordingly, it is indeed not
20 true that they were slaughtered.

21 "9. As almost all the villages outside of
22 Nanking were set on fire by Chinese troops putting the
23 so-called 'scorch earth' operation into practice as
24 they retreated so that the Japanese troops didn't even
25 have any houses to billet and almost all the units were

1 forced to camp out. Common as such 'scorch earth'
2 operations of the Chinese troops were, the burning
3 of homes were especially numerous in the area of
4 this battle.

5 "Even inside of the Nanking fortress there
6 were traces of fire here and there when we first
7 entered. There were said to be fires started by the
8 Chinese troops as they retreated. Because of the
9 necessity of maintaining billeting facilities in
10 cold weather, the Headquarters ordered every unit to
11 be on the alert against fire at all times, and a
12 responsible man was picked to control fire in each
13 unit. But in spite of these precautions, there were
14 times when we caught Chinese girls with certificates
15 of residence starting fires.
16

17 "10. I did receive reports from the military
18 police of a few instances of plunder committed by
19 Japanese soldiers. However, as the residents fled
20 their belongings were carried with them and most of
21 their houses were practically empty. I never did hear
22 of any organized or mass plundering. Needless to say,
23 it is absolutely without fact that the Headquarters
24 ordered, connived, or permitted such illegal acts.
25 I was informed directly by Chinese victims that most
of the plundering and destruction in the battlefields

NAKASAWA

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1 of China were the common acts of retreating Chinese
2 troops and those desperate people who took chances to
3 force themselves in the area.
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1 "11. The protection of foreign interests
2 and cultural institutions was strictly ordered by
3 General MATSUI and was made known down to the last
4 unit under his command. The Chinese, however, were
5 skillful in hiding behind foreign interests. They
6 used to especially abuse the use of foreign flags
7 and there were cases in which straggler Chinese
8 soldiers were found hiding under a foreign flag. I
9 got such reports many times from the Chinese even
10 within the Nanking fortress. Consequently, it is
11 true that the Japanese troops could not at once
12 identify the existence of foreign flags as being
13 synonymous of foreign interests with confidence,
14 and sometimes they could not help raiding places
15 that impressed them as being dangerous. It is
16 regrettable that these raids gave rise to all kinds
17 of complications.

18 "12. There is no such fact that organized
19 rapes were committed by Japanese soldiers. There
20 were a few scattered offenses concerning discipline
21 as I recall, but I know they were all punished in
22 accordance with the laws.

24 "13. The places where buried bodies were
25 said to have been found according to the evidence
presented by the prosecution are those places where

1 the Chinese troops had built positions and defended
2 themselves as in the case of the area between
3 'Chungshan Men' and 'Ma-Gun' or places where there
4 were facilities for the receiving of the dead and
5 wounded from their positions as in the case of
6 Taiping-Men Fukueishan and the vicinity. It is a
7 fact that many of the soldiers of both sides were
8 killed in these areas. But never was there any
9 mass butchery committed at these places.

10 "14. When the 16th Division came to guard
11 Nanking and its vicinity its efforts were concentrated
12 on maintaining peace and order. As the result order
13 was restored in the city, the confused people were
14 straightened out and they were gradually returning to
15 their homes with confidence in the Japanese troops.
16 General MATSUI's order to treat the inhabitants kindly
17 was so thoroughgoing that as early as the end of the
18 year the Assembly of the Maintenance of Public Order
19 was organized and at the inaugural ceremony held
20 on January 1, 1938, thousands upon thousands of
21 Chinese gathered at the public square in front of
22 Kulou, the place of ceremony, and cheered. Subsequently,
23 the number of residents was increasing and even peddlers
24 were seen more and more. It is absolutely not true
25 that illegal and violent acts of the Japanese troops

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1 were frightening the inhabitants at that time.

2 "23rd of September, 1947."

3 Signed by the witness.

4 You may cross-examine.

5 THE PRESIDENT: Brigadier Nolan.

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CROSS-EXAMINATION

1 BY BRIGADIER NOLAN:

2 Q General NAKASAWA, you were Chief of Staff
3 of the 16th Division?

4 A Yes.

5 Q What army was that division in?

6 A At the end of November, it came under the
7 command of the Shanghai Expeditionary Forces.

8 THE INTERPRETER: Not "November"; "October."
9

10 Q And, under whose command was it at the time
11 of the capture of Nanking?

12 A Under General MATSUI.

13 Q But, it was a component part of one of
14 General MATSUI's armies. What army?

15 A It belonged to the Shanghai Expeditionary
16 Forces under General MATSUI.

17 Q And, did it belong to the Shanghai
18 Expeditionary Forces under General MATSUI at the time
19 of the capture of Nanking?

20 A At the time of the fall of Nanking, the
21 Shanghai Expeditionary Forces was under the command
22 of Prince ASAKA, and this Expeditionary Force was
23 in turn under the command of General MATSUI.

24 Q And, was the 6th Division, of which you
25 were Chief of Staff, part of the Shanghai

1 Expeditionary Force, or was it part of the 10th Army?

2 A It was part of the Shanghai Expeditionary
3 Force.

4 Q All right. Where was the headquarters of
5 the Shanghai Expeditionary Force at the time of the
6 fall of Nanking?

7 A It was somewhere to the east of Nanking.
8 I have forgotten the name of the place.

9 Q And, after the fall of the city, where
10 was the headquarters?

11 A At the time of the fall of Nanking, the
12 headquarters were at Tansuichen and after that with-
13 in the City of Nanking.

14 Q When was the headquarters set up in the City
15 of Nanking?

16 A I recall that it was about the 15th of
17 December. This is the divisional headquarters.

18 Q Was the headquarters of the Shanghai
19 Expeditionary Force in the City of Nanking after the
20 fall of the city?

21 A I recall that it was not located within
22 Nanking immediately after the fall of Nanking.

23 Q When was it located in Nanking?

24 A The headquarters entered the city at the
25 same time as the formal entry into the City of

1 Manking on the 17th of December, but I do not recall
2 accurately just when the headquarters itself was
3 formally established, whether it took over from a
4 preceding unit or just what actually happened.

5 THE INTERPRETER: "I do not recall whether
6 the headquarters was actually established in Nanking
7 immediately after the fall of Nanking or just exactly
8 what the date of the formal establishment of the
9 headquarters was."

10 Q Did the 10th Army take part in the attack
11 upon Nanking?

12 A Yes, I believe it did.

13 Q Was it part of the Shanghai Expeditionary
14 Force?

15 A I do not think that the 10th Army was a
16 part of the Shanghai Expeditionary Forces.

17 Q Where was the headquarters, after the fall
18 of the city, of the 10th Army?

19 A I do not know. I had no connection with the
20 10th Army. Therefore, I do not know.

21 Q Do you know what divisions were in the 10th
22 Army?

23 A I do not know for sure, but I believe that
24 the 6th Division and the 114th Division formed the
25 10th Army, but, as I have said before, since I was

1 not attached or had any connection with the 10th Army,
2 I do not know for sure.

3 Q Was the 8th Division part of the 10th Army?

4 A I do not know pertaining -- matters pertain-
5 ing to the 10th Army.

6 Q Now, tell me the numbers of the divisions
7 in the Shanghai Expeditionary Force at the time of
8 the capture of Nanking.

9 A The 16th Division, the 9th Division, part
10 of the 13th Division. As for the others, I do not
11 know where they were located.

12 Q Were the 3rd and 11th Divisions part of the
13 Shanghai Expeditionary Force at that time?

14 A I believe they were a part of it.

15 Q Now, in your affidavit, in paragraph 2, you
16 tell us that at the time of the triumphant entry
17 into the city a select unit was sent in. That was
18 on the 17th of December, wasn't it?

19 A Those which were dispatched into Nanking
20 immediately after the entry into Nanking occurred on
21 the 13th and 14th of December.

22 Q In your affidavit you say that at the time
23 of the triumphal entry into the city a select unit
24 was sent in, and that was on the 17th of December,
25 wasn't it?

1 A The units arrived at the walls of Nanking
2 on the morning of the 13th, and on that day and on
3 the following day, two battalions were sent into the
4 city for mopping-up operations.

5 Q Was a select unit sent into the city at the
6 time of the triumphal entry into the city on the 17th
7 of December?

8 A No, that is not so. At the time of the entry
9 into Nanking -- the ceremony of the entry into Nanking
10 on the 17th of December, the units were not limited
11 to those alone.

12 THE PRESIDENT: We will recess for fifteen
13 minutes.

14 (Whereupon, at 1445, a recess was
15 taken until 1500, after which the proceed-
16 ings were resumed as follows:)
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1 sent in "in order to placate and treat the citizen
2 kindly and to maintain order."

3 Q Had there been reports of outrages or atrocii-
4 ties which caused the dispatch of this special unit
5 into the city?

6 A The two battalions were sent into the city
7 to mop up remnants -- enemy remnants.

8 Q You say in your affidavit it was "to placate
9 and treat the citizen kindly and to maintain order."

10 Q Had there been reports of disorder and unkind
11 treatment?

12 A I believe the meaning of this second para-
13 graph is that these units were given orders to do so.
14 As I don't have my affidavit on hand --

15 Q Weren't the first units that went in given
16 orders to do so too?

17 A Yes.

18 Q And were there reports of ill treatment toward
19 the citizens of Nanking before this special unit was
20 sent in?

21 A I should like to have my affidavit shown to me.
22 I think you are confusing the first units that entered
23 the city with the units who entered later to mop up
24 the remnants.

25 BRIGADIER NOLAN: Fight the witness be shown

1 sent in "in order to placate and treat the citizen
2 kindly and to maintain order."

3 Q Had there been reports of outrages or atrocii-
4 ties which caused the dispatch of this special unit
5 into the city?

6 A The two battalions were sent into the city
7 to mop up remnants -- enemy remnants.

8 Q You say in your affidavit it was "to placate
9 and treat the citizen kindly and to maintain order."

10 Q Had there been reports of disorder and unkind
11 treatment?

12 A I believe the meaning of this second para-
13 graph is that these units were given orders to do so.
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15 Q Weren't the first units that went in given
16 orders to do so too?

17 A Yes.

18 Q And were there reports of ill treatment toward
19 the citizens of Nanking before this special unit was
20 sent in?

21 A I should like to have my affidavit shown to me.
22 I think you are confusing the first units that entered
23 the city with the units who entered later to mop up
24 the remnants.
25

BRIGADIER NOLAN: Might the witness be shown

1 the original Japanese of exhibit No. 3398?

2 (Whereupon, a document was
3 handed to the witness.)

4 Will the witness direct his attention to
5 the last portion of paragraph 2 in the English?

6 THE WITNESS: The words of my affidavit are
7 as follows: "We were ordered by General MATSUI at
8 the time of entry into the city to send a select unit
9 in order to placate and treat the citizens kindly
10 and maintain order."

11 Q Did you omit the word "triumphal" in that
12 translation?

13 A Yes. My meaning is simply "entry into the
14 city."

15 Q All right.

16 A I feel that what you have been telling me --
17 in what you have been telling me up to now you have
18 been confusing this with paragraph 4: "... at the
19 dawn of December 13, 1937, about two battalions were
20 sent into the city in order to sweep certain areas,"
21 and the names of the areas are given. I believe you
22 confused this with the part of paragraph 2 that you
23 have been citing: "We were ordered by General MATSUI
24 to send a select unit in order to placate and treat
25 the citizens kindly," etc.

1 Q Will you direct your attention, please, to
2 the second paragraph of section 4 of your affidavit
3 in which you say that on the 23rd of December part
4 of the 16th Division substituted for another unit which
5 had entered the city previously.

6 What was the other unit?

7 A It was a unit belonging to another division.

8 Q Obviously, but what was the number of it?

9 A The 9th Division.

10 Q What other divisions were within the walls of
11 the city after the fall besides the 9th and 16th?

12 A I don't know the names of any units other than
13 those belonging to the 9th Division. I didn't know
14 any divisions except that one which was in front of
15 our division and those which were on both sides.

16 Q And what were they?

17 A The 9th Division was on our left and then there
18 were divisions belonging to the 10th Army on the other
19 sides, but I have forgotten which division was to the
20 right and which division was to the left. I have
21 forgotten their numbers.

22 Q In paragraph 10 of your affidavit you state
23 that you did receive reports from the military police
24 of a few instances of plunder committed by Japanese
25 soldiers. Was that in Nanking?

1 A Yes, inside the city walls.

2 Q How many instances were there?

3 A I have forgotten the number.

4 Q What was taken?

5 A Goods of little value.

6 Q What kind of goods?

7 A According to my recollection, there were a
8 few articles of daily use -- some food and things
9 of that nature.

10 Q Will you look at paragraph 11 of your affi-
11 davit, at the very end of that paragraph, in which you
12 state that sometimes soldiers could not help raiding
13 places that impressed them as being dangerous, and
14 you go on to say that these raids gave rise to all
15 kinds of complications. What kinds of complications?

16 A Well, our soldiers would see a foreign flag
17 flying but would believe they were flags being used
18 by the Chinese forces under false pretences. They
19 would go to these places and would then find that
20 these foreign flags actually did represent foreign
21 residences, and the foreigners living there would be
22 irritated.

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1 Q In paragraph 12 you say, "There were a few
2 scattered offenses concerning discipline." What kind of
3 offenses were these, General?

4 A For instance, attempts to enter refugee areas,
5 attempts to cohabit with Chinese women; things of that
6 nature, I believe.

7 Q By that you mean the offense of illegal entry
8 and rape, or the attempt to commit such offenses?

9 A There were some attempts, and I believe also
10 that in cases of rape there were some actual cases.

11 Q How many were there?

12 A I don't recall. I believe they were few in
13 number.

14 Q In paragraph 13 of your affidavit, in speaking
15 about places where bodies were buried, you refer to
16 evidence presented by the prosecution. What evidence
17 are you referring to?

18 A I have forgotten the number of the document,
19 but it is a document which was published by the
20 charitable -- which originated from the charitable
21 organization in Nanking.

22 Q Well, are you suggesting that the numbers of
23 bodies buried were the bodies of soldiers who fell in
24 the fighting within the walls of Nanking?

25 A Yes. Not merely within the city walls, but

1 the greater number of them were found in the fortified
2 areas immediately outside the city walls.

3 Q And were there women and children amongst the
4 number?

5 A What do you mean by that?

6 Q Well, in the number of dead that were picked up,
7 according to the evidence of the prosecution there were
8 women and children. Were these killed outside the wall?

9 A Since I am not testifying that I saw these
10 bodies myself, I do not know.

11 Q Then you don't know where they came from, do
12 you?

13 A I am not speaking of bodies I saw myself. I
14 was referring to the evidence presented by the prosecu-
15 tion.

16 Q And you were endeavoring to explain it away
17 by something of which you have no personal knowledge?

18 A I wanted to say -- What I wanted to say was
19 that the bodies referred to in the evidence presented
20 by the prosecution were found in fortified areas -- were
21 found in the area of battle, and furthermore, I wanted
22 to say that these bodies were the bodies of soldiers.

23 Q Did you see the bodies?

24 A Yes.

25 Q How many were there?

1 A I don't recall the number, but I do remember
2 having seen dead bodies lying on the battlefield. How-
3 ever, I do not mean by this to say that I saw all the
4 bodies referred to in the prosecution's evidence. I
5 merely wish to say that I did see some bodies on the
6 battlefield.

7 Q In paragraph 14 of your affidavit, the last
8 paragraph, mention is made of an inaugural ceremony on
9 the 1st of January 1938 of the Assembly of the Mainte-
10 nance of Public Order, and you go on to say that the
11 gathering was in the public square in front of Kulou,
12 the place of the ceremony, and thousands upon thousands
13 of Chinese cheered.

14 That was the day that the Russian Embassy was
15 burned?

16 A Yes.

17 Q Did you see the burning?

18 A Yes.

19 Q Who set it on fire?

20 A I don't know.

21 BRIGADIER NOLAN: That is all I have to ask.

22 THE PRESIDENT: I have some questions on be-
23 half of Members of the Tribunal.

24 BY THE PRESIDENT:

25 Q What was your rank when you were Chief of Staff

of the 16th Army?

1 A Chief of Staff of a division.

2 Q What rank of general officer?

3 A I was a colonel.

4 Q When were you promoted to lieutenant-general?

5 A In October of 1941.

6 Q Were you decorated for your part in the capture

7 of Nanking?

8 A I do not know whether the decoration was for
9 the fighting in that Nanking area itself or not.

10 Q Who was the Commander of the 16th Division at
11 the time of entry into Nanking?

12 A Lieutenant-General NAKAJIMA, Kasago.

13 Q Where is he?

14 A He has passed away.

15 Q Who were the Chinese members of the commission
16 that was organized after the entry into Nanking?

17 A I do not remember.

18 Q What happened to the Chinese stragglers who
19 were turned over to the headquarters of the Shanghai
20 Expeditionary Force?

21 A They were treated as prisoners of war.

22 Q Were they tried for any offense?

23 A That is a matter for superior headquarters.

24 I do not know what happened later.

1 THE PRESIDENT: Yes. That is all. I have no
2 further questions on behalf of any Member of the Tri-
3 bunal.

4 MR. MATTICE: No redirect examination, if your
5 Honor please.

6 May the witness be excused?

7 THE PRESIDENT: He is excused on the usual
8 terms.

9 (Whereupon, the witness was e -
10 cused.)

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1 MR. MATTICE: We now call the witness IINUMA,
2 Mamoru.

3 - - -

4 M A M O R U I I N U M A, recalled as a witness on
5 behalf of the defense, having been previously
6 sworn, testified through Japanese interpreters as
7 follows:

8 THE PRESIDENT: He is still on his former
9 oath.

10 MR. MATTICE: May the witness be sworn --
11 strike.

12 THE PRESIDENT: I understand he has already
13 been sworn; I may be mistaken.

14 MR. MATTICE: Yes. May the witness be
15 shown defense document 2626?

16 DIRECT EXAMINATION

17 BY MR. MATTICE:

18 Q Is that your affidavit, Mr. Witness?

19 A Yes.

20 Q Are the matters and things contained therein
21 true?

22 A Yes, they are.

23 MR. MATTICE: Offered in evidence, if the
24 Tribunal please.

25 THE PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Defense document 2626
2 will receive exhibit No. 3399.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 3399 and received in evidence.)

6 THE PRESIDENT: Has this witness been
7 sworn before? We seem to think he has been but we
8 must make sure of it.

9 MR. MATTICE: Let me inquire.

10 Mr. Witness--

11 THE PRESIDENT: Do not ask him. We will
12 have to ascertain independently. Captain Van Meter
13 says he has been and he knows them all.

14 MARSHAL OF THE COURT: Mr. President, our
15 records show that this witness has appeared before
16 the Tribunal previously.

17 THE PRESIDENT: We must ascertain this
18 independently, but I will ask him whether he has
19 given evidence before this Tribunal before.

20 MR. MATTICE: You may answer, Mr. Witness.

21 THE WITNESS: Yes, I have appeared on this
22 witness stand before.

23 MR. MATTICE: I will read exhibit 3399,
24 beginning at paragraph numbered 2:

25 "2. I am ex-Lieutenant-General. When the

1 Expeditionary Force in Shanghai was organized, I was
2 appointed the Chief of Staff under Commander in Chief
3 MATSUI and participated in the battles of Shanghai
4 and Nanking.

5 "3. After the Expeditionary Force in
6 Shanghai was organized General MATSUI gave officers
7 under him the following instruction and ordered them
8 to drive it home to their men.

9 "(1) The battle in the vicinity of Shanghai
10 is aimed at the subjugation of Chinese Army challeng-
11 ing us, therefore protect and patronize Chinese
12 officials and people as far as possible.

13 "(2) Always bear in mind not to involve
14 foreign residents and armies in trouble and maintain
15 close liaison with foreign authorities in order to
16 avoid misunderstanding.

17
18 "4. Officers and men took unusual trouble
19 to carry out the above instruction. During the battle
20 of Shanghai, Chinese soldiers and people, as well as
21 Japanese Army personnel, were given medical treatment
22 and medicines were distributed among them to prevent
23 infectious diseases from spreading. When the Japanese
24 Army attacked the southern district of Shanghai
25 (Nanshin), the units in the front line took incon-
ceivable pains technically not to drop shells on the

1 district so that the peace and order of the City was
2 maintained.

3 "The above instruction was repeatedly given
4 on all occasions and its execution was strictly super-
5 vised even until after the battle of Nanking.

6 "5. Immediately after the battle of
7 Shanghai General MATSUI interviewed the representa-
8 tives of America, England, France, etc., and apologized
9 for the damage on their nationals. He clarified
10 Japan's position under the circumstances and requested
11 them to cooperate with us in bringing the war to the
12 conclusion in a short space of time. Never was I
13 given from General MATSUI any order whatsoever to
14 make light of foreign rights and interests and never
15 did I see or hear that the officers and men under his
16 command perpetrated such deeds.

17 "6. On December 2, 1937, the Expeditionary
18 Force in Shanghai was ordered to capture Nanking. At
19 that time General MATSUI in the capacity of Commander
20 in Chief of the Central China Army Groups gave a
21 detailed instruction concerning the capture of Nanking.
22 I, as Chief of Staff, transmitted to the units under
23 MATSUI the order to capture Nanking and at the same
24 time admonished them 'to be tolerant and benevolent
25 towards Chinese soldiers (if they do not dare to

1 resist) as well as people, and pacify and protect
2 them."

3 The seventh paragraph I will omit reading.
4 Eighth paragraph on page 4:

5 "8. On December 10, the order to attack
6 the castle of Nanking was issued.

7 "It was 33d Infantry Regiment, 16th
8 Division, that attacked Mt. Tzekin-shan."--

9 We will omit the reading of that paragraph
10 also.

11 Paragraph 9 on page 5:

12 "9. Despite the fact that at the fall of
13 Nanking nearly all of principal houses outside the
14 walls of the city were burnt or destroyed and there
15 was no house to quarter Japanese Army, more troops than
16 expected entered the city. So by General MATSUI's
17 order I made all the troops, except 16th Division,
18 retire to far-off eastern districts, and intended to
19 restore the order of the city by ordering them to
20 maintain strict military discipline and public morals.

21 "10. I made three inspection tours on each
22 day, December 16, 20 and 31, 1937, but found no corpse
23 in the streets. In the neighborhood of Siakwan I saw
24 scores of bodies of soldiers killed in battle but as
25 for the alleged tens of thousands of slaughtered bodies

1 never did I see them even in a dream. I admit that
2 there were small fires but never did I see a case of
3 intentional incendiarism nor receive a report about
4 it. In the city within the castle walls there were
5 a few burnt houses, but nearly all of them remained
6 as they had been. I always gave instruction to
7 Japanese army to pay careful attention to fire,
8 warning them heavy responsibility for it.

9 "11. After the entry to Nanking a few cases
10 of plunder and outrage were reported to General
11 MATSUI. He regretted that these unlawful acts were
12 done despite his repeated instructions. He instructed
13 the officers to do their best to prevent the occurrence
14 of misdeed and insisted on a severe punishment on
15 lawlessness. Consequently such offenders were
16 punished. Afterward, military discipline was strictly
17 maintained and I heard that even 16th Division lodged
18 a protest against the procedure of Legal Department.
19

20 "12. I was told that some troops removed
21 articles of furniture but they said that they did
22 so to facilitate quartering. They said that in
23 requisition they compensated for the loss, but in most
24 cases managers fled, so they put up a note to guaran-
25 tee the compensation in quartering. A few soldiers
removed articles of furniture privately and some

1 removed articles of furniture belonging to
2 foreigners, but the matter was settled by returning
3 the articles in question to their owners or by
4 compensating for the loss, the offenders being
5 punished. Of course Army Headquarters did never
6 order to commit unlawful acts nor admitted them.

7 "13. As for the management of refugee
8 district in Nanking, I ordered 16th Division to
9 guard and protect the place, and admission to and
10 from the place was limited to those who possessed
11 certificates and military police guarded the place.
12 Therefore, I believe the place cannot have been en-
13 croached on by men collectively, systematically or
14 continuously. Neither did I hear of or see many
15 incidents as proved by the prosecutor; consequently
16 never did I make a like report to Commander in
17 Chief MATSUI who naturally never heard of such
18 incidents.

19
20 "14. I did not know that many protests had
21 been made by the Nanking Security District Committee,
22 so I never reported it to General MATSUI."

23 Cross-examine.
24
25

1 THE PRESIDENT: Brigadier Nolan.

2 BRIGADIER NOLAN: May it please the Tribunal.

3 CROSS-EXAMINATION

4 BY BRIGADIER NOLAN:

5 Q General IINUMA, what was your rank when you
6 were Chief of Staff under General MATSUI in 1937?

7 A I was Major General.

8 Q The attack on the city of Nanking was under-
9 taken by two armies, the 10th and the Shanghai Expe-
10 ditionary Force; is that so?

11 A Yes, that is so.

12 Q And General YANAGAWA commanded the 10th Army
13 and Prince ASAKA the Shanghai Expeditionary Force?

14 A Yes, that is so.

15 Q The Shanghai Expeditionary Force which at-
16 tacked Nanking consisted of the 3rd, 9th, 11th, 13th
17 and 16th Divisions, is that so?

18 A There is a slight difference.

19 Q What is it, please?

20 A Almost all of the 9th and 16th Divisions did
21 take part. A part of the 3rd Division did take part.
22 A part of the 13th Division was to have taken part
23 also, but they did not arrive in time to participate
24 in the fighting around the walls of Nanking.

25 Almost all of the 16th and 9th Divisions, a

1 part of the 3rd Division, and a part of the 13th
2 Division was supposed to reinforce our forces; but,
3 as they were late, they were not in time to join in the
4 fighting up to the fall of Nanking.

5 THE MONITOR: The last interpretation stands.

6 Q And now, General, you have told me all the
7 divisions who didn't attack Nanking. Tell me those
8 that did, please.

9 A Those that I just mentioned did participate.

10 Q And of the Shanghai Expeditionary -- and
11 of the 10th Army, I beg your pardon, the 6th, 8th
12 and 114th divisions participated; is that so?

13 A I do not know the details concerning the 10th
14 Army, but I believe the units which participated were
15 parts of the 114th Division, the 8th Division, and
16 a part of the 6th.
17

18 THE MONITOR: Correction again: 114th and
19 the 6th and a portion or part of the 8th Division.

20 BRIGADIER NOLAN: Might the witness be shown,
21 please, his Japanese copy of exhibit 3399?

22 (Whereupon, a document was handed

23 to the witness.)

24 Q If you will please look at paragraph 10, you
25 will see that you make reference to the neighborhood
of Siakwan where you saw scores of bodies of soldiers

killed in battle.

1 A Yes.

2 Q Where is Siakwan, General IINUMA?

3 A It is outside the city walls of Nanking,
4 to the west, on the banks of the Yangtze River.

5 Q In the same paragraph you say that you made
6 inspection tours on the 16th, 20th and 31st of De-
7 cember. Were you in Nanking throughout that period
8 or did you return on those later dates of the 20th
9 and 31st?
10

11 A Our headquarters were practically just outside
12 of Nanking, and on the 16th and on the 20th I went
13 specially to Nanking from our headquarters for this
14 inspection tour.

15 Q And when you say "our headquarters," do you
16 mean General MATSUI's headquarters?

17 A No, Prince ASAKA's headquarters.

18 Q But were you not Chief of Staff to General
19 MATSUI?

20 A Up to the beginning of December I was.

21 Q And after that you became Chief of Staff of
22 the army of General ASAKA?

23 A Yes.

24 Q Did you see any of the complaints which were
25 made by the foreign citizens in the city of Nanking

1 beginning about the 13th of December, 1937 and ending
2 in February of 1938?

3 A No, I haven't.

4 Q Did you see any of them?

5 A None at all.

6 Q Did you know that the foreign residents had
7 complained?

8 A I did not know whether the foreign resi-
9 dents had protested, but I heard of incidents such
10 as the stealing of a piano or of an automobile after
11 the incidents had occurred and took appropriate meas-
12 ures.

13 Q What unit are you referring to, the person-
14 nel of which stole a piano?

15 A I don't remember.

16 Q Did you hear of any cases of murder or rape?

17 A Yes. Not of murder though.

18 Q Of rape. When did you hear of that?

19 A I don't remember the date. Anyway, it was
20 after our headquarters moved into Nanking.

21 Q And how long was that after the fall of the
22 city?

23 A It was after the 25th or 26th of December.

24 Q Well, General MATSUI knew about these before
25 you did, according to your affidavit; is that a fact?

1 A I believe that is possible.

2 Q Well, if you look at paragraph 11 of your
3 affidavit, it may refresh your memory. It says,
4 "After the entry to Nanking a few cases of plunder
5 and outrage were reported to General MATSUI." How
6 long after the entry?

7 A By the words "after the entry to Nanking"
8 I do not mean after the entry of our headquarters to
9 Nanking but after our troops took Nanking.

10 Q So do I, and how long after that was it?

11 A Two or three days later.

12 Q Who told General MATSUI?

13 A I believe it must have been the military
14 police.

15 Q Did you tell him?

16 A No.

17 Q Did the Japanese Consul General tell him?

18 A That I do not know.

19 Q Do you know whether his divisional command-
20 ers told him?

21 A I don't think that was possible.

22 Q Why not?

23 A The chain of command is different.

24 Q How is it different?

25 A Well, the system -- if a divisional commander

1 wanted to report anything, either the commander of
2 the division or his Chief of Staff would report it
3 to the Chief of Staff, to General MATSUI, or to --
4 would report it to the Chief of Staff of the Army or
5 to Prince ASAKA, and from there it would go to Gen-
6 eral MATSUI.

7 Q On the day of the triumphal entry into the
8 city, the 17th of December, were you present?

9 A Yes.

10 Q Were all the Army commanders, their chiefs
11 of staff, the divisional commanders and their chiefs
12 of staff present at that time?

13 A The commander of the 13th Division and his
14 chief of staff did not attend.

15 Q All the rest did?

16 A Yes.

17 THE PRESIDENT: We will adjourn until half-
18 past nine tomorrow morning.

19 (Whereupon, at 1600, an adjourn-
20 ment was taken until Friday, 7 November,
21 1947 at 0930.)
22

23 - - -
24
25

7th November.

Letter of 18th December, 44

7 NOVEMBER 1947

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I N D E X
O f
E X H I B I T S

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2708	3400		Affidavit of OGAWA, Sekijiro		32674
2237	3401		Affidavit of SAKAKIBARA, Kazue		32678
1371	3402		Photograph of a Bulletin posted on the wall of the Chinchon Temple, Chinkiang by a Staff Officer of the Shanghai Expeditionary Force as ordered by Commander MATSUI		32688
2235	3403		Affidavit of SHIMONAKA, Yasaburo		32690
2236	3404		Affidavit of NAKATANI, Takeyo		32704
		3405	Magazine entitled "Dai- Asia-Shugi" October 1940 issue	32714	
2394		3405-A	Excerpt therefrom		32715
	3406		Book entitled "The Annual Report by the Greater Asiatic Association", published in April 1940		32719
2234	3406-A		Excerpts therefrom		32721

7 NOVEMBER 1947

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Of
EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc</u>
2500	3407		Excerpts from the firm establishment of "Manchuria for Manchurians" written by MATSUI, Iwane June 1932		32730
2625	3408		Lecture delivered by MATSUI, Iwane which appeared in the "Great Asia Doctrine", the organizational publication of the Great Asia Association		32733
2670	3409		Affidavit of OKADA, Takashi		32738
2594	3410		Photograph of the Inauguration of Kennondo, erected by MATSUI, Iwane		32763
1077-A	3411		Statement issued by MATSUI, Iwane in Shanghai on 8 October 1937		32764
1077-B	3412		Statement issued by MATSUI, Iwane to the People of the Chinese Republic		32764

1 Friday, 7 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE R. B. PAL, Member
15 from India, not sitting from 0930 to 1600.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 - - -

4 F A K O R U I I N U M A, recalled as a witness
5 on behalf of the defense, resumed the stand and
6 testified through Japanese interpreters as follows:

7 THE PRESIDENT: All the accused are present
8 except SHIRATORI and MATSUI, who are represented by
9 counsel. We have certificates from the prison surgeon
10 of Sugamo certifying that they are ill and unable to
11 attend the trial today. The certificates will be
12 recorded and filed.

13 Some weeks ago the Prime Minister of Australia
14 cabled to me as follows:

15 "The Court lists this year have been and
16 will be heavy. Even minor and temporary indisposi-
17 tions have several times recently reduced the Court
18 below the number necessary for effective operation.
19 Having regard to Section 23 of the Judiciary Act, a
20 Bench of five judges is required for any case affect-
21 ing the constitutional powers of the Commonwealth,
22 and on several occasions only four have been available."

23
24 The Prime Minister then requested me to
25 return to Australia for the November Sittings of the
High Court of Australia, if that could be arranged.

1 The November Sittings commences on Tuesday next
2 and will continue until the midsummer vacation on
3 the 20th of December.

4 I am returning to Australia.

5 Accordingly, I shall not after today resume
6 my seat on this Tribunal until sometime in December.

7 Mr. Cunningham.

8 MR. CUNNINGHAM: If your Honor please, may
9 I make a motion and objection to that action which
10 has just been announced on the part of the Tribunal?

11 THE PRESIDENT: Not without the concurrence
12 of my colleagues. What is the nature of the motion?

13 MR. CUNNINGHAM: Objection to the absence
14 of the President of the --

15 THE MONITOR: Will you repeat Mr. Cunningham's
16 statement?

17
18 (Whereupon, the last statement was
19 read by the official court reporter.)

20 MR. CUNNINGHAM: I didn't finish the sentence.

21 THE PRESIDENT: We will hear you.

22 MR. CUNNINGHAM: I wish to state that my
23 remarks are addressed to your office and not to you,
24 personally, Mr. President.

25 First, it is the basis of my objection that
it is the duty of a judge to attend the trial at all

1 times unless sickness intervenes. The privilege of
2 absence has been so abused during this trial that it
3 is necessary at this time that the record show a
4 protest.

5 THE PRESIDENT: I have never been absent
6 for one second from this trial.

7 MR. CUNNINGHAM: It is my contention that
8 no judge should hold down two judgeships at the same
9 time or positions on different courts at the same
10 time.

11 THE PRESIDENT: Most of the Judges here
12 hold positions upon other than this court. We do not
13 want your personal reasons. We will hear your sub-
14 missions of law.

15 MR. CUNNINGHAM: It is the right of these
16 defendants to have the Judges present at all stages
17 in the proceedings.

18 THE PRESIDENT: The Charter expressly per-
19 mits them to be absent.

20 MR. CUNNINGHAM: The Charter never contem-
21 plated a trial by absent judges.

22 THE PRESIDENT: That is not questioned. We
23 cannot allow you to waste our time arguing against
24 the terms of the Charter.

25 MR. CUNNINGHAM: There being no procedure

1 for selecting a substitute President in the Charter,
2 we must assume that in the case of the absence of the
3 one appointed the case shall be adjourned, or the
4 President resign and a new one appointed by the
5 Supreme Commander.

6 THE PRESIDENT: Then, if the President
7 becomes ill an acting President cannot be appointed,
8 according to you.

9 MR. CUNNINGHAM: That is my position, your
10 Honor, and I would like to have any authority to the
11 contrary.

12 THE PRESIDENT: Some things are so elementary
13 that authority is not called for.

14 MR. CUNNINGHAM: May I proceed and finish my
15 matter? Then I can answer any questions that you
16 might have on my authority for what I say at the end
17 of my discussion.

18 Since the trial has progressed to its present
19 stage and there is a possibility that it shall continue
20 for another six months or year beyond the time for
21 negotiations for the peace treaty, then we contend
22 that these defendants have been upon trial and have
23 been detained already much longer than their deeds,
24 even if they were found guilty, are justified in many
25 cases; and if the President of the Tribunal cannot

1 stay throughout the proceedings, then the accused
2 certainly should not have to stay here.

3 THE PRESIDENT: Even the accused are
4 frequently absent.
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1 MR. CUNNINGHAM: Since this case involves
2 the question, does international obligations supersede
3 national obligations, it seems that the President should
4 decide which duty calls him, but both should not be
5 allowed to call him at the same time.

6 An election is called for at this time.

7 THE PRESIDENT: That is not a submission of
8 law, in my understanding.

9 MR. CUNNINGHAM: It is an imposition upon
10 the accused and their counsel, is a reflection upon
11 the dignity of the court, the importance of this
12 proceeding, and the loyalty to the Supreme Commander.
13 It is the duty of Australia to accede to the Allied
14 Powers and make their sacrifice. If the reason given--

15 THE PRESIDENT: That is purely political, and
16 I do not think we should listen to you. I have con-
17 sulted the Supreme Commander at every step.

18 My colleagues tell me they want your submissions
19 of law only. It is not for you to tell Australia what
20 her duty is, nor for me to listen to you.

21 MR. CUNNINGHAM: If the reason given this
22 morning is the only reason which calls the President
23 back home, then I object, for the reason that it is
24 not sound, legal, or a logical excuse for absence,
25 not in the best interests of justice, of a fair trial

1 for these accused, is contrary to the spirit and the
2 wording of the Charter, and an abuse of the privileges
3 allowed under it, above all times to take a leave of
4 absence when it is so essential to have a full Court.
5 Therefore, I object to the absence of the President
6 during the trial for any reason other than health.
7 I request that if the President leaves, then he ask
8 the Court to adjourn until his return. In the event
9 the Court refuses to adjourn, then I ask that the Presi-
10 dent disqualify himself from further participation in
11 this trial on account of his absence, and that he
12 request that the Supreme Commander designate another
13 Member as President, or that the case be dismissed
14 and that we all go back to our own countries.

15
16 No: if you have any observations or questions,
17 I will be glad to answer them as the source of my
18 authority.

19 THE PRESIDENT: We will hear Mr. McManus if
20 you have nothing further to say.

21 MR. McMANUS: If your Honor pleases, I want
22 to make it quite clear on behalf of the accused IRAKI
23 that we do not join the motion just presented.

24 MR. LEVIN: Mr. President, Mr. Cunningham,
25 in beginning his argument, did not state on whose behalf
~~he made his motion. I do not know whether there are~~

1 other American counsel who join him, but I believe the
2 consensus of American counsel is opposed to this motion.
3 In any event, he did not speak for me.

4 If there were a legal basis for making a
5 motion that I thought was tenable, possibly I might
6 make such a motion. Nevertheless, the motion in my
7 opinion is not tenable in any sense. I say this even
8 though I shall very greatly regret the absence of the
9 President as the presiding officer of the Tribunal.

10 Article 3 of the Charter provides as follows:

11 "a. President. The Supreme Commander for
12 the Allied Powers shall appoint a Member to be President
13 of the Tribunal."

14 Article 4, Subdivision a, provides:

15 "Whenever as many as six Members of the Tribunal
16 are present, they may convene the Tribunal in formal
17 session. The presence of a majority of all members
18 shall be necessary to constitute a quorum."
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1 It will be noted, if the Tribunal please,
2 that the presence of the President is not essential
3 under this article for the constitution of a quorum
4 of the Court. The only special function possibly
5 that the President has in relation to the voting is
6 that if there is a tie, his vote is decisive as
7 provided in subdivision b. Subdivision b provides
8 as follows: "All decisions and judgments of this
9 Tribunal, including convictions and sentences, shall
10 be by a majority vote of those Members of the Tribunal
11 present. In case the votes are evenly divided, the
12 vote of the President shall be decisive."

13 It is for this reason, may it please the
14 Tribunal, that I believe there is no basis in fact
15 or in law for the position presented by Mr. Cunningham.

16 THE PRESIDENT: Mr. Cunningham.

17 MR. CUNNINGHAM: Your Honor, most times --
18 many times your best point is emphasized by your
19 adversary.

20 Your absence leaves this Court with ten
21 Members when Justice Pal returns on the 12th. Time
22 after time in this courtroom, your vote has been
23 decisive on major matters of policy as well as
24 objections to evidence introduced in this Court which
25 was of vital importance to these defendants. Under

1 the Charter the President in such cases is given
2 two votes. His vote is the decisive one.

3 You, Mr. President, have been invested with
4 that power and authority by the Supreme Commander
5 and you can neither delegate it, assign it, or
6 postpone it. It is a matter that has to be exercised,
7 in my submission, by you personally.

8 If the Charter had intended a substitute or
9 an alternate for the President in its statesmanship
10 or lack of it, it would have expressly stated that
11 in its provisions; and the absence of any expression
12 indicates that it was not intended according to the
13 legal interpretation of documents of this nature.

14 THE PRESIDENT: It takes a long time for the
15 interpreters to translate what you say. I wish you
16 would speak in clearer language so that we wouldn't
17 be delayed so long in this Tribunal.

18 You completely miss the point. The matter
19 has been covered by a decision of the highest court
20 in the British Empire, and there is no higher court
21 in the world.

22 This very question arose in connection
23 with a trial arising out of the South African War.
24 In the particular statute or charter the Privy Council
25 in the King -vs- Marais, decided after that war, . . .

1 naturally, that where the expression "A Judge of the
2 Supreme Court" was used in a document like this, it
3 extended to an acting judge.

4 The report of that decision is obtainable in
5 Tokyo, and I shall place it before my Colleagues who
6 are interested in reading it. They can decide whether
7 they will apply the reasoning in that decision, or what
8 they have heard from you.

9 MR. CUNNINGHAM: Well, may I refer a little
10 reading on that point, too?

11 THE PRESIDENT: You missed the point completely;
12 that the term "President" in the Charter includes an
13 acting president according to that very high English
14 authority. And that decision, being a Privy Council
15 decision, binds every court in every British Dominion.

16 MR. CUNNINGHAM: Well, being an Irish-American,
17 your Honor, doesn't bind me.

18 I merely want to call attention to Judicial
19 Code, Section 217, entitled "Vacancy in Office relating
20 to the Chief Justice of the United States Supreme
21 Court." Now, that makes more sense to me than the
22 interpretation of a case that arose in some British
23 court. So, I would suggest that the Court read that
24 provision and see if the United States Supreme Court
25 is --

1 THE PRESIDENT: We will listen gladly to
2 any decision of the United States Supreme Court on
3 the interpretation of such a word as the "President"
4 or the "Chief Justice" in any statute. But what the
5 statute provides is entirely beside the point, as
6 you know. What you get in your United States Supreme
7 decisions is the help of their reasoning on questions
8 of interpretation, but you do not get them in statutes
9 of the United States Congress nor in the statutes of
10 any other parliament. I should not have to point out
11 those elementary things to counsel.
12

13 MR. CUNNINGHAM: Your Honor, as far as you
14 and I are concerned, you are misleading me, because
15 I follow a statute much more closely than I do the
16 decision of the Court interpreting that statute; because
17 what some court might have said about something some
18 time or other doesn't bind. It is what the law says
19 in the statute made by the legislators that controls.
20

21 THE PRESIDENT: Then, if you think that, I
22 have nothing more to say to you.

23 MR. CUNNINGHAM: I should like to say what
24 this statute says in the Case of Vacancy in the Office
25 of the Chief Justice of the United States. And if
the Charter had intended to take care of this
contingency it would have stated. And this provision

1 of the United States Code probably was enacted in
2 order that a situation which confronts us this
3 morning would not arise.

4 My final observation is this: That it is
5 doubtful that if a President pro tem or a substitute
6 president were appointed by the remaining Members
7 of this Tribunal at this time, that any action taken
8 either by this President or by the Tribunal under
9 his direction would be valid.

10 THE PRESIDENT: The motion is dismissed.
11 Brigadier Nolan.
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CROSS-EXAMINATION

1 BY BRIGADIER NOLAN: (Continued)

2 Q General IINUMA, at the adjournment yesterday
3 afternoon, we were discussing the fact that a few
4 cases of plunder and outrage were reported to
5 General MATSUI after the entry into Nanking. What
6 were the outrages referred to in that paragraph 11
7 of your affidavit?

8 A By "outrages" are meant at times -- are
9 meant rough actions but at times included rape.

10 Q What do you mean by "rough actions" when it
11 does not include rape?

12 A What I mean by "rough actions" is meant such
13 actions as removing furniture to use the furniture
14 as fire wood for warming purposes or to beat or kick
15 the inhabitants and other actions of such nature.

16 Q Does it include murder?

17 A No.

18 Q You told me yesterday that the headquarters
19 of your army was thirty kilometers distant from Nan-
20 king prior to the fall of the city.

21 A Yes.

22 Q On what date did you move your headquarters
23 into Nanking?

24 A About the 25th of December.
25

1 Q And, how long did the headquarters remain
2 in Nanking after that?

3 A Some time until after the 10th of February
4 of the following year.

5 BRIGADIER NOLAN: Thank you.

6 MR. MATTICE: May the witness be excused?

7 THE PRESIDENT: He is excused on the usual
8 terms.

9 (Whereupon, the witness was excused.)
10

11

12 MR. MATTICE: We offer next, if the Tribunal
13 please, defense document 2708, which is the affidavit
14 of OGAWA, Sekijiro.

15 THE PRESIDENT: Admitted on the usual terms.

16 CLERK OF THE COURT: Defense document No.
17 2708 will receive exhibit No. 3400.

18 (Whereupon, the document above
19 referred to was marked defense exhibit
20 No. 3400 and received in evidence.)

21 MR. MATTICE: I will read exhibit No. 3400,
22 omitting the caption, beginning at the paragraph
23 numbered 1:

24 "1. I was ordered to become Chief of Legal
25 Affairs Section of the Tenth Army (Commanding General
was Lieutenant-General YANAGAWA) about the end of

1 September, 1937..."

2 I am informed that the name of the month
3 should be October instead of September, and if the
4 witness had been on the stand, he would have so
5 corrected it.

6 "... landed on the northern coast of Hang-
7 chow Bay, took part in the battle of Nanking, was
8 attached to the Central China Area Army on 4 January
9 of the following year and became under the direct
10 control of the Commander MATSUI.

11 "2. The Tenth Army, immediately after land-
12 ing on the shores of Hangchow Bay, come under the
13 command of the Central China Area Army. Commander
14 MATSUI gave us instructions to apply the law strictly
15 in order to protect Chinese law-abiding citizens and
16 to defend foreign interests as well as, of course, to
17 observe strict military discipline and public morals.

18 "3. Before I came to Nanking, I dealt with
19 about twenty cases of offenses on military discipline
20 and public morals. In the course of my dealing with
21 crimes on public morals, I found it very difficult to
22 decide whether the cases were fornication or violation.
23 The reason was that it not not rare on the part of
24 the Chinese women to take a suggestive attitude to-
25 wards Japanese soldiers, and when they were found as

1 having committed adultery with Japanese soldiers by
2 their husbands or other people, they suddenly changed
3 their attitude and asserted exaggeratedly that they
4 had been raped. Whether adultery or rape, however,
5 I punished indictees in accordance with the law,
6 weighing the relative importance of the facts. Those
7 who took intimidation steps, I punished severely.

8 "4. I entered Nanking about noon on 14
9 December and in the afternoon inspected the garrison
10 area of the Tenth Army (southern part of Nanking).

11 "At that time I saw only six or seven
12 corpses of Chinese soldiers and no other. The Tenth
13 Army evacuated Nanking on 19 December and switched
14 to the Hangchow operations. During my stay in Nan-
15 king, I neither heard any rumors of illegal conduct
16 of the Japanese soldiers nor were there any indict-
17 ments for illegalities. The Japanese Army remained
18 on a operationed basis, and military discipline was
19 strictly maintained. Never did I, of course, receive
20 orders to do or approve illegal conducts from senior
21 officers, much less from Commander in Chief MATSUI.

22 "5. The Japanese Military Police also
23 strictly observed the orders from Commander in Chief
24 MATSUI and kept strict watch and control. Illegal
25 conducts of the Japanese soldiers were very strictly

1 controlled. For example, Lieutenant Colonel KAMISAGO
2 (Military Police) made a protest of my being too
3 lenient in a case which I had personally investigated
4 thoroughly and announced as not for prosecution,
5 because of its minor offense.

6 "6. On 4 January 1938, when I met General
7 MATSUI at the Headquarters in Shanghai, the General
8 said laying much stress, "Judgment of crimes shall
9 be fair and strict." I faithfully followed his
10 advice and discharged my duties very strictly.

11 "On this 6th day of October, 1947."

12 It is signed by OGAWA, the affiant.

13 We now call the witness SAKAKIBARA.
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1 K A Z U E S A K A K I B A R A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. MATTICE:

6 Q You may give your name and address to the Tri-
7 bunal, please.

8 A My name is SAKAKIBARA, Kazue, and my address is
9 No. 42 Honshio-cho, Shinjuku-ku, Tokyo.

10 MR. MATTICE: May the witness be shown defense
11 document 2237?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Will you look at the instrument that has been
15 handed to you and tell this Tribunal whether that is
16 your affidavit?

17 A This is my affidavit.

18 Q Are the matters and things stated therein
19 true?

20 A The contents are entirely true and correct.

21 MR. MATTICE: I offer it in evidence, if the
22 Tribunal please.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 2237
25 will receive exhibit No. 3401.

1 (Whereupon, the document above re-
2 referred to was marked defense exhibit No.
3 3401 and received in evidence.)

4 MR. MATTICE: I will now read exhibit 3401,
5 omitting the caption, and beginning with the section
6 denominated with the figure 1:

7 "1. I was formerly Colonel of the Army and am
8 now Chief of the Personnel section, First Demobilization
9 Bureau.

10 "2. I was nominated staff officer of the
11 Expeditionary Force to Shanghai when it was organized
12 in August of 1937 (12th year of Showa) and was ordered
13 to take charge of logistics of the Force. Landing at
14 Woosung on the 23rd of August, I transacted supply of
15 ammunition in the first stage, but when our army
16 entered into Nanking I was concerned with transport
17 business, and returned to Japan, receiving the order on
18 the 23rd of January of the following year.

19 "3. I am well acquainted with the plan of
20 operation held by General MATSUI as I had always re-
21 ceived his orders directly and been consulted by him
22 in the headquarters since the Expeditionary Force to
23 Shanghai was organized.
24

25 "4. As the Expeditionary Force was organized
suddenly, with no preparations and plan, it was decided

1 (Whereupon, the document above re-
2 referred to was marked defense exhibit No.
3 3401 and received in evidence.)

4 MR. PATTICE: I will now read exhibit 3401,
5 omitting the caption, and beginning with the section
6 denominated with the figure 1:

7 "1. I was formerly Colonel of the Army and am
8 now Chief of the Personnel Section, First Demobilization
9 Bureau.

10 "2. I was nominated staff officer of the
11 Expeditionary Force to Shanghai when it was organized
12 in August of 1937 (12th year of Showa) and was ordered
13 to take charge of logistics of the Force. Landing at
14 Woosung on the 23rd of August, I transacted supply of
15 ammunition in the first stage, but when our army
16 entered into Nanking I was concerned with transport
17 business, and returned to Japan, receiving the order on
18 the 23rd of January of the following year.

19 "3. I am well acquainted with the plan of
20 operation held by General MATSUI as I had always re-
21 ceived his orders directly and been consulted by him
22 in the headquarters since the Expeditionary Force to
23 Shanghai was organized.
24

25 "4. As the Expeditionary Force was organized
suddenly, with no preparations and plan, it was decided

SAKAKIBARA

DIRECT

32,680

1 that without waiting for completion of organization of
2 the whole force the units which had completed mobiliza-
3 tion should be sent one after another to the front to
4 be in time for rescuing the naval landing party which
5 had been fighting under great difficulty in Shanghai
6 area. This detachment consisted of four battalions of
7 infantry and two batteries of artillery, totaling 5,000
8 of men of the 3rd division and four battalions of infan-
9 try and two batteries of artillery, 5,000 of men of the
10 11th division, and eight pieces of gun, but owing to
11 shortage of preparative ammunition, they could carry
12 only 400 rounds per gun, totaling 3,200 rounds.

13 "5. The strength being so small as has been
14 described above, we fought the battle against heavy
15 odds, though we were gradually reinforced later, so
16 General MATSUI's landing delayed about two weeks. More-
17 over, owing to the spread of epidemics, such as cholera,
18 dysentery, and so forth, we changed the whole Paoshan-
19 chen into a quarantine hospital to receive patients
20 there.

21
22 "Though these epidemics were precluded in
23 October, our fighting power showed sometimes a marked
24 fall in consequence. Moreover, the battle had been
25 fought under great difficulty from want of ammunition
and provisions. I think these difficulties above stated

1 were caused absolutely by the want of preparation for
2 the military operations in this district and by the
3 consequence of the gradual use of forces according to
4 the principle of not expanding the case.

5 "6. The Expeditionary Force to Shanghai, too,
6 had sometimes requisitioned munitions in the occupied
7 area according to the formalities established in the
8 Field Service Regulations.

9 "Requisition is always executed by the carrying
10 money chest, the plan being mapped out by the account
11 officer in the battalion, and the smaller unit than a
12 battalion or each individual is strictly prohibited to
13 to do it without permission. It is a matter of course
14 to pay a compensation when the requisition is executed.

15 "7. We were embarrassed in executing the
16 requisition in occupied areas between Shanghai and
17 Nanking where neither inhabitants nor administrative
18 authorities to negotiate with had not remained.

19 "In such cases we had inevitably to use the
20 commodities to be requisitioned without personal con-
21 sent of the possessors, and we used to put up a poster
22 on which the kind and amount of the goods requisitioned
23 were described, so that the possessors might be informed
24 of the fact and come to the headquarters to receive their
25 compensation.

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21 sent of the possessors, and we used to put up a poster
22 on which the kind and amount of the goods requisitioned
23 were described, so that the possessors might be informed
24 of the fact and come to the headquarters to receive their
25 compensation.

1 "I actually witnessed such process being taken
2 for the rice warehouses at Wuhsi.

3 "8. Whenever the owners or the administrative
4 authorities remained in the occupied area, we negotiated
5 with them to ask their consent and got the commodities
6 requisitioned smoothly after paying equivalent to them.

7 "Many times I acted in that manner, notably, I
8 remember, the case in landing operation at Painaokiang,
9 where the village head remained to take administrative
10 responsibility. I negotiated with him and got supply
11 of provisions and forage. As we paid reasonable com-
12 pensation for this and as we took measure to protect
13 inhabitants remaining in that place, the village head
14 thanked us for the orderly action of our troops and gave
15 us a cordial reception.

16 "At Chanshu, too, there were cases like that.
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1 "9. Furthermore, I directed in many
2 places, by means of my autographed notice-boards,
3 safeguard of the inhabitants and prohibition of loot-
4 ing in many other places. I took all those measures
5 above stated in accordance with the intention of
6 General MATSUI. Nobody remaining to take administra-
7 tive responsibility, personal negotiation was im-
8 possible in Nanking. Consequently it is conjectured
9 that our troops executed requisition according to the
10 convenient measures stated above. As for requisition
11 from the refugee quarter in the city, I have never
12 heard about it.

13 "10. Both troops of Chinese and Japanese
14 practised incendiarism in the front as a tactical
15 method. That which was practised by Chinese troops
16 prior to their retreat caused considerable damage in
17 various places which hindered our advance or the relief
18 and pacification after occupation.

19 "There had been fires before our occupation
20 of Nanking, but no conflagration after the fall of
21 the city. So far as I know only the small part of the
22 city was burnt, the greater part of it being safe
23 from fire. It is clear, if we glance at the spot, that
24 the neighbourhood of Fushibyō (Confucius Temple) as
25 well as other central places remain as it is before the

1 battle. The part which was burnt was very small
2 compared with that of Tokyo.

3 "11. I saw that the buildings of the Foreign
4 Affairs Department and the Military and Navy Department
5 were used as a hospital for the wounded and the sick
6 Chinese.

7 "However, the medical equipment was in-
8 sufficient and the reception of the patients seemed to
9 be difficult. There cannot have been any massacre
10 there. On the contrary, we gave them rice and medical
11 supplies.

12 "Do what we might, they never recovered, it
13 seems, and died, as most of them were in serious condi-
14 tion.

15 "12. We scarcely captured war prisoners
16 before entry to Nanking, and I was told that our troops
17 captured approximately 4,000 in the vicinity of Nanking,
18 one-half of whom were sent to Shanghai and the rest
19 detained in Nanking.

20 "Though I saw several of them were employed
21 for common labour, I never maltreated them, dismissing
22 them when their duties were over.

23 "A certain Liu of Szechsien is an actual case
24 whom I so dismissed. The treatment of prisoners can
25 be ascertained by hearing him. Decampment and theft

1 were frequently committed by war prisoners and I
2 suppose the latter crime was duly punished according
3 to law, but the former crime, as I understood it, was
4 let alone without punishment.

5 "13. In official written orders, 'nominated
6 to ...' means that the personnel nominated to is in-
7 stalled in the fixed position within the full strength
8 of officials, but 'appointed ... irregularly' means
9 that the personnel appointed has no fixed post without
10 the full strength of officials and he is an official
11 without portfolio. In the curriculum vitae of General
12 MATSUI 'appointed to attach the General Staff Office
13 (dated 21 December of 3rd year of Showa)' means that
14 he was installed in the General Staff Office as an
15 official, but had no fixed post. (He was then travelling
16 through Europe)"

17 It is signed by the deponent.

18 You may cross-examine.

19 BRIGADIER NOLAN: There will be no cross-
20 examination.

21 MR. MATTICE: I desire to ask this witness
22 one omitted question, if I may.

23 THE PRESIDENT: You have our permission.

24 Q Mr. SAKAKIBARA, at the time of the military
25 action at Nanking where was General MATSUI's headquarters?

1 A About the time of the capture of Nanking,
2 that is, about the 10th of December, 1937, the
3 headquarters of General MATSUI was located in Soochow.
4 Soochow is located about forty miles east of Nanking.

5 Correction: One hundred forty miles east of
6 Nanking.

7 On the 13th of December General MATSUI was
8 in Soochow, and on the 15th he advanced to the Tang-
9 Shuichen area. On the 17th of December General
10 MATSUI entered Nanking, and on the 21st he went to Shang-
11 hai by destroyer from Nanking.

12 Q Were you with General MATSUI at the time he
13 was at his headquarters at Soochow immediately before
14 proceeding to Nanking?

15 A I was not with him.

16 Q Was General MATSUI at Nanking at the time the
17 city fell?

18 A No, he was not in Nanking. He was, as I
19 have already stated, in Soochow. No, he was not in
20 Nanking at the time. He was, as I have stated before,
21 in Soochow.

22 THE PRESIDENT: We will recess for fifteen
23 minutes.

24 (Whereupon, at 1045, a recess was
25 taken until 1100, after which the proceedings
were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Mattice.

4 MR. MATTICE: One additional question.

5 Q Do you know why General MATSUI was not at
6 Nanking at the time of the military action there and
7 the fall of the city?

8 A I do.

9 Q Why was he not there?

10 A It was because it was proper at the time to
11 establish the headquarters, General MATSUI's head-
12 quarters, at Soochow in order to command appropriately
13 both the Shanghai Expeditionary Force and the 10th
14 army; and, furthermore, on the 13th of December, on
15 the day of the fall of the city of Nanking, General
16 MATSUI was sick and was on that account, as I under-
17 stand, unable to be in the front lines.

18 MR. MATTICE: That is all.

19 THE PRESIDENT: Brigadier Nolan.

20 BRIGADIER NOLAN: May I ask one question,
21 if you please, sir?

22 CROSS-EXAMINATION

23 BY BRIGADIER NOLAN:

24 Q You told us that on the 10th of December the
25 headquarters of General MATSUI were at Soochow and that

1 on the 15th of December they moved to another area.
2 What is the name of that area which I did not catch?

3 A He was in Soochow -- I shall repeat again:
4 He was in Soochow on the 13th of December and at
5 Tangshuichen on the 15th of December.

6 Q And how far is Tangshuichen from Nanking?

7 A About ten Japanese ri.

8 Q Do you know what that is in English miles?

9 A I think approximately twenty-five miles.

10 BRIGADIER NOLAN: That is all.

11 MR. MATTICE: May this witness be excused?

12 THE PRESIDENT: He is excused on the usual
13 terms.

14 (Whereupon, the witness was excused.)

15 MR. MATTICE: Next we offer defense document
16 No. 1371. This document is a photograph of a bulletin
17 posted on the wall of the Chinchuan Temple located at
18 Chinkiang by a staff officer of the Shanghai Expedi-
19 tionary Force as ordered by Commander MATSUI.

20 This is evidence that General MATSUI exerted
21 his efforts to maintain the military discipline and
22 morals of his officers and men and to prevent any
23 outrageous actions by them.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Defense document 1371

1 will receive exhibit No. 3402.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3402 and received in evidence.)

5 MR. MATTICE: The exhibit consists of a
6 photostatic copy of the placard, the translation of
7 which reads and it is very brief: "Do not set fire
8 to this temple. Do not loot this temple."

9 I will read it again: "Do not set fire to
10 this temple. Do not loot this temple. Give protec-
11 tion to priests in this temple. December 1937.
12 Army Headquarters."

13 We next call the witness SHIMONAKA, who will
14 be examined by Mr. ITO.

15 - - -

16 Y A S A B U R O S H I M O N A K A, called as a
17 witness on behalf of the defense, being first
18 duly sworn, testified through Japanese inter-
19 preters as follows:

20 DIRECT EXAMINATION

21 BY MR. ITO:

22 Q Mr. Witness, please give your name and
23 address.

24 A My name is SHIMONAKA, Yasaburo; my address:
25 No. 229 Saginomiya, 1-chome, Nakanø-ku, Tokyo.

1 MR. ITO: May the witness be shown defense
2 document 2235?

3 Q Please examine the document and say whether
4 that is your signed affidavit.

5 A Yes.

6 Q Are the contents thereof true and correct?

7 A Yes, as you say.

8 MR. ITO: I now tender in evidence defense
9 document 2235.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 2235
12 will receive exhibit No. 3403.

13 (Whereupon, the document above referred
14 to was marked defense exhibit No. 3403 and
15 received in evidence.)

16 MR. ITO: I shall now read court exhibit
17 3403; reading from paragraph 2:

18 "2. I established the Greater Asia Associa-
19 tion with General MATSUI in 1933, and I was a chief
20 secretary of the director of that association until
21 the time of its dissolution in 1941.

22 "3. General MATSUI delivered an address at
23 the conference of the establishment of the Greater
24 Asia Association. In his speech there was the following
25 account: When General MATSUI went to Geneva as

1 military delegate for the Disarmament Conference
2 which was held there in 1931, Mr. Wellington Koo,
3 Chinese delegate, frequently attacked Japan at the
4 table of that conference, and Japanese delegates also
5 made active replies. Notwithstanding the fact that
6 China and Japan had been brother countries from
7 olden times, they were quarrelling against each other
8 before all the eyes of the Whites which were strongly
9 fixed upon them. That was indeed so shameful a sight
10 that he could not keep his eyes open. He thought that
11 this would not do at all, he wished for that reason to
12 exert himself to the best of his power for bringing
13 about a better feeling between China and Japan soon
14 after returning to Japan.

15 "I had separately organized a body of
16 investigation called the Oriental Society for
17 Researches and Investigations at that time, but when
18 I listened to General MATSUI's opinion, I agreed with
19 him entirely. And this is the reason why I resolved
20 to establish the Greater Asia Association in good
21 cooperation with him.

22 "4. General MATSUI attempted to establish
23 that association without resigning his present post.
24 This was not welcomed by the military authorities,
25 and some of them seemed to go so far as to propose him

1 to check this establishment. But General MATSUI
2 did not discontinue the work of the already estab-
3 lished Greater Asia Association, saying that as for
4 things concerning China and Japan, he had been much
5 interested and, in addition, he had made special
6 studies since his young days, and that he had a
7 firm belief for the reconciliation between China
8 and Japan. Hereupon, the two War Ministers, ARAKI
9 and HAYASHI, came to decide to approve his under-
10 taking on the condition that the Greater Asia move-
11 ment would act purely within the limit of an in-
12 struction movement for thought, namely, no political
13 movement would be started. Thus the establishment
14 of the Greater Asia Association was recognized. Such
15 being the case, this association behaved to fulfil
16 the condition of the above-mentioned approval and
17 never took an action which bring about a political
18 influence and remained faithful as a body where the
19 genuine thought instructions concerning Sino-Japanese
20 questions were investigated and studied among members
21 themselves.
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1 "5. The contents of the work of the Greater
2 Asia Association were the opening of the meeting for
3 investigations and researches, and issuing organ
4 magazines (on the Greater Asia Principle). The con-
5 crete contents of the meeting was that when noted per-
6 sons returned home from various places in the world,
7 that meeting used to be held and various states of
8 affairs of foreign countries would chiefly be listened
9 to, and familiar talks would be given in connection
10 with that matter; in other words, it was nothing but
11 the meeting of listening to talks given. No special
12 research organ, however, was established for conducting
13 systematic and positive investigations. Therefore,
14 when suitable persons did not come, the meeting was not
15 held even for a period of three or four months. The
16 private school for developing Asia was also contem-
17 plated, but it was not realized owing to want of funds.

18 "6. The expenditure for the establishment
19 of the Greater Asia Association depended upon private
20 funds, and never asked for the assistances of the
21 government or other public bodies. Namely, the expen-
22 diture for its establishment was chiefly depended upon
23 ten thousand yen which was the remaining money saved
24 by General MATSUI personally from his travelling expenses
25 to Geneva, and it was started with the contributions

1 of all the interested members and persons as its basis
2 fund.

3 "7. The Greater Asia Association, in short,
4 had the object of carrying out Dr. Sun Yat-sen's
5 Greater Asia Principle as its guiding spirit, and was
6 to instruct the peoples based upon the following
7 articles:

8 "(1) Blood is thicker than water; China and
9 Japan are brother countries.

10 "(2) Asia would be saved if China and Japan
11 should cooperate with each other.

12 "(3) Asia is the mother of the world civili-
13 zation.

14 "(4) Moral civilization of Asia will be able
15 to save the world.

16 "(5) However, there are very few independent
17 states in Asia. It is simply because China and Japan
18 are at variance and struggling against each other.

19 "8. The magazine was monthly issued, as many
20 as about two thousand copies, and these were distributed
21 among the members of association only. Therefore,
22 the people in general could not be instructed by them.

23 "The ordinary expenditure of the association
24 was from twenty thousand to twenty-five thousand yen
25 per annum, which consisted of the salaries of clerks

1 and the expenses for printing. And these were managed
2 by means of the subscriptions of the members, the sales
3 of the magazines, and the contributions of members or
4 persons interested.

5 "9. While and after General MATSUI was the
6 Commander of Formosan Army, the association was scarcely
7 on the move, could not be so active as it had been
8 hoped for, because of the shortage of fund and of the
9 dislike of the military authorities. Even after
10 General MATSUI became a councillor of the cabinet, no
11 positive acts could be taken even in the least.

12 "10. The system for the cabinet councillors
13 aimed at the solution of the China Incident. But
14 according to General MATSUI's impression, it was only
15 the conference of listening to the reports, and it was
16 quite nonsensical for him, as he was not demanded to
17 suggest a plan, nor were his plans adopted even when
18 some suggestions were given to them. I remember that
19 he accordingly resigned his post before long.

20
21 "11. General MATSUI visited North China in
22 1936, and discussed the Greater Asia Principle with
23 all the interested Chinese people there. With this
24 conference as a turning point, the Chinese Greater Asia
25 Association was established at Tientsin in December
of the same year by the influential wise men in the

1 political, business, and literary circles in North
2 China. Generals Sung Che-yuan, Hau Fu-chu, and
3 others also became its supporters. The Chinese
4 Greater Asia Association, however, was not a branch
5 department of the Japanese Greater Asia Association,
6 but an independent body, and it has been the one the
7 object of which was to realize the Asia for the
8 Asiatics by China and Japan in complete cooperation
9 between the two.

10 "12. In his speech at the farewell meeting
11 which was held in honor of him when he became the
12 Commander of the Expeditionary Forces in Shanghai,
13 General MATSUI said, 'I am going to the front in the
14 state of mind that to pacify the brother rather than
15 to fight the enemy. I had known China and had had
16 many Chinese friends since my young days.' At that
17 time, the military authorities also had the non-
18 aggravation policy, and the General Staff Office gave
19 only two divisions to General MATSUI. And I heard
20 that General MATSUI demanded five divisions to the
21 General Staff Office in order to conclude the war as
22 quickly as possible by means of the 'lightning war,'
23 but this was not realized. The foreign magazines
24 looked as if they had seen through Japan concerning
25 her weak-kneed policy, saying that General MATSUI

1 proceeded to Shanghai with two divisions of old soldiers.

2 "13. In 1941 the Japanese Government
3 completely annexed a great number of researches and
4 investigation bodies for the cultures in general, such
5 as Oriental religions, morals, and attainments, for
6 politics and economies, etc., and bodies for guiding
7 public opinion concerning Oriental questions; made up
8 one body which was named the Japanese Asia Development
9 League; and thus attempted to control the Asia Develop-
10 ment movement by it. The Greater Asia Association
11 was also amalgamated into this Japanese Asia Develop-
12 ment League, the organ of the association was made
13 to discontinue its publication, all the records were
14 transferred from the association to the Asia Development
15 League, and General MATSUI was recommended for a staff
16 of that league.

17 "A great many members of the league and all
18 sorts of undertakings were brought together at random
19 by the Asia Development League. But as they were only
20 a medley of the good and bad, their perfect control
21 and arrangement were quite impossible. Therefore,
22 they did nothing but repeat the changes of system, and
23 were not able to be engaged in any actions of great
24 significance.
25

"14. Not long after that, General MATSUI

1 resigned his post, and retired to Atami, where he was
2 a keeper of the Kannon (merciful goddess) temple, and
3 offered up prayers for the repose of all the Chinese
4 and Japanese souls who were killed at various battle-
5 fields in China. But sometimes he at the request of
6 people there gave lectures on the Great Asia Principle.
7 I often accompanied him and listened to his lectures.
8 He chiefly spoke to the effect that the key to the
9 solution of the incident lay on the reflection of the
10 Japanese.

11 "General MATSUI loved China and the Chinese,
12 and he said that in order to save Asia, China and
13 Japan should rise up hand in hand with each other.

14 "On this 27th day of January, 1947, at Tokyo."

15 You may cross-examine.

16 THE PRESIDENT: Brigadier Nolan.

17 BRIGADIER NOLAN: There will be no cross-
18 examination.

19 MR. ITO: May the witness be excused on the
20 usual terms?

21 THE PRESIDENT: He is excused accordingly.

22 (Whereupon, the witness was excused.)
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1 MR. ITO: We next offer in evidence
2 defense document No. 128. This document is the
3 address delivered by San Yat-sen, father of the
4 Chinese Republic, at Kobe in the 13th year of the
5 Chinese Republic, under the title of "The Principle
6 of Greater Asia."

7 MATSUI, Iwane, who responded to the afore-
8 said address, founded the Great Asia Association and
9 came to champion the said principle. Accordingly,
10 we shall present the document for the purpose of
11 clarifying the intrinsic nature and purports of the
12 Great Asia Principle advocated by MATSUI.

13 THE PRESIDENT: Brigadier Nolan.

14 BRIGADIER NOLAN: May it please the Tribunal,
15 defense document 128 is objected to by the prosecu-
16 tion. It was originally offered in evidence in the
17 general phase on the 10th of March of this year and
18 rejected at page 18,030 of the record.

19 It is a speech delivered in the year 1924
20 and relates to conditions alleged to have existed
21 thirty years before that. It describes public opinion
22 as the speaker observed it at the time of the Russo-
23 Japanese War and refers to independent movements in
24 certain named countries. It comments upon a book
25 published by an unnamed American scholar with regard

1 to the rights of the colored race and concludes with
2 a comparison of Eastern and Western culture.

3 As a Member of the Tribunal put it through
4 the President at the time of the rejection at page
5 18,030: "The Court is concerned with actions and
6 conduct, not the words with which they were referred
7 to."

8 It is submitted that if it was not admis-
9 sible in the general phase, so much the more is it
10 inadmissible in an individual phase. We submit that
11 it is irrelevant and has no possible connection with
12 any issue raised in the case and should not be re-
13 ceived by the Tribunal.

14 THE PRESIDENT: Yes.

15 MR. ITO: The prosecution has just said that,
16 inasmuch as it was rejected in the general phase, it
17 should be rejected in the individual phase. However,
18 I am not necessarily of that opinion. I believe it
19 is possible that, although it may be inappropriate in
20 the general phase, it may be appropriate in the indi-
21 vidual phase. I maintain that, inasmuch as the ac-
22 cused MATSUI advocated the Great Asia Principle, that
23 his principle was in response to the Great Asia Prin-
24 ciple of Sun Yat-sen. In other words, Sun Yat-sen
25 was the foundation and MATSUI's principle was the

echo.

1 Sun Yat-sen was the origin of the principle,
2 and MATSUI was the echo.

3 Inasmuch as MATSUI has been accused on ac-
4 count of his having advocated the Great Asia Prin-
5 ciple, I believe it will be of assistance to the
6 Court if the fundamentals and the contents of that
7 principle are made clear.

8 THE MONITOR: Correction: In view of the
9 fact that the accused MATSUI has been charged for
10 a crime, that is to say, of advocating the Greater
11 Asia Principle, and evidence has been submitted by the
12 prosecution in support of that charge, I firmly be-
13 lieve that it would be of assistance to this Tribunal
14 to know and understand the true nature and substance
15 and contents of the Greater Asia Principle.

16
17 Inasmuch as MATSUI's Greater Asia Principle
18 is the echo of that of Sun Yat-sen, it becomes necessary
19 to explain and make clear the contents and substance
20 of the principle advocated by Sun Yat-sen in order to
21 clarify what MATSUI advocated.

22 The defense agrees, as the prosecution has
23 pointed out, that in this document many irrelevant
24 things have been mentioned because of the long passage
25 of time since the speech was delivered. I should like

1 to omit those irrelevant parts and read some excerpts
2 concerning the more important points.

3 THE PRESIDENT: Now, he isn't charged with
4 the crime of being a member of that society, although
5 particulars of his association with that society are
6 given in the appendix to the Indictment. It is for
7 the prosecution to show that something criminal was
8 done or advocated by that society. You meet that
9 by showing just what the society was formed to do and
10 what it did. What Sun Yat-sen said twenty-three
11 years ago about something that happened thirty years
12 before that is hardly relevant. It is too remote,
13 isn't, or immaterial?

14 A.R. ITO: In spite of the President's words,
15 I wish to point out that Sun Yat-sen was concerned
16 with tens of centuries, and I should first like to
17 state that Dr. Sun Yat-sen's speech treats of culture
18 existing several thousands of years ago and about
19 eastern and western culture of the past several hun-
20 dred years. And the example of the Russo-Japanese
21 War which Brigadier Nolan pointed out is only one of
22 the minor points given as an example. To put simply
23 what Dr. Sun Yat-sen advocated would be as follows:

24 The Kingly Way existing in the East from
25 ancient times should be followed, and Japanese-Chinese

cooperation should be the central motivating power.

1 The peoples of the East should be liberated and should
2 constitute independent and free nations.

3 THE PRESIDENT: That particular society,
4 the Greater East Asia Society, may have advocated
5 things which were quite innocent. We are not inves-
6 tigating those. I think we have heard enough. You
7 may add a few words, but there is a limit to the time
8 that can be spent on these notions or objections,
9 even in reply to them.

10
11 MR. ITO: I understand, sir. I await the
12 ruling of the Court.

13 THE PRESIDENT: By a majority, the Court
14 upholds the objection and rejects the document.

15 MR. ITO: I now call as a witness NAKATANI,
16 Takayo.

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1 T A K E Y O N A K A T A N I, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. ITO:

4
5 Q Mr. NAKATANI, please state your name and
6 address.
7

8 A My name is NAKATANI, Takeyo; my address,
9 No. 783, Daiba, 1-chome, Setagaya-ku, Tokyo.

10 MR. ITO: May the witness be shown defense
11 document 2236?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Mr. Witness, please examine the document
15 and state whether that is your signed affidavit.

16 A This is my affidavit.

17 Q Are the contents thereof true and correct?

18 A Yes.

19 MR. ITO: I now tender in evidence defense
20 document 2236.

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Defense document 2236
23 will receive exhibit No. 3404.

24 (Whereupon, the document above
25 referred to was marked defense exhibit

No. 3404 and received in evidence.)

1 MR. ITO: I now read exhibit 3404, reading
2 from paragraph 2:

3 "2. I had been a standing trustee of the
4 Great Asiatic Society from March 1933 to June 1941,
5 and had also been the nominal editor and publisher
6 of the 'Pan-Asianism,' organ magazine published by
7 that society.
8

9 "3. I hereby affirm that the annual bulle-
10 tin of the Great Asiatic Society published on April
11 25, 1940 was edited and published in my name, with
12 the materials collected by the business section of
13 the society.

14 "4. I hereby affirm that an article with
15 the title of 'Prospectus for Foundation of the Great
16 Asiatic Society,' which appeared in the above 'annual
17 bulletin,' from p. 5 to p. 8, was originally drafted
18 by its Foundation Committee and was decisively pub-
19 lished on March 1, 1933.

20 "5. I hereby affirm that an article with
21 the title of 'Rules of the Great Asiatic Society,'
22 which appeared in the above 'annual bulletin,' from
23 p. 9 to p. 12, was decided by the Foundation Committee
24 in February 1933.
25

"6. I hereby affirm that an article with

1 the title of 'General View of the Enterprises of the
2 Great Asiatic Society in China,' which appeared in
3 the above annual bulletin, from p. 81 to p. 82, was
4 the record made when General MATSUI and I, during our
5 North China trip, heard of the intention of Sung
6 Choh-yuan and Chin Te-chun, of founding the Great
7 Asiatic Society in China, and conferred with them on
8 liaisioning with that in Japan.

9 "I also hereby affirm that 'the Proclamation
10 of the Great Asiatic Society in China,' part of the
11 above article, was originally written and published
12 by the Chinese, was delivered to the Great Asiatic
13 Society in Japan, and was printed in the organ and
14 the annual bulletin of Pan-Asianism.

15 "On this 7th day of May, 1947.

16 "At Tokyo."

17 Mr. President, I wish to ask one supplementary
18 question.

19 THE PRESIDENT: Do so.

20 Q Mr. Witness, I understand that the Greater
21 Asia Society advocated the collaboration between
22 Japan and China based upon the Greater Asia Principle
23 of Dr. Sun Yat-sen. Now, what was the attitude of
24 General MATSUI and the Greater Asia Society toward the
25 Three Peoples Principle, which is the central doctrine

of Dr. Sun Yat-sen?

1 A Some explanation would be necessary in
2 replying to that question.

3 During the course of the China Incident
4 there was rather strong opposition to the San Min
5 Chai-i, that is Three Peoples Principle, both in the
6 government and among the people. Even in the Greater
7 Asia Society there was -- there were two opposing
8 thoughts in connection with the Three Peoples
9 Principle. For instance, Dr. KANOKOGI, a member of
10 the society, was strongly opposed to the Three Peoples
11 Principle; and there were not a few other members
12 who were in favor of the principle.

13 THE INTERPRETER: Correction. There were not
14 a few among the members who were opposed to the stand
15 taken by Dr. KANOKOGI.

16 THE MONITOR: There were not a few members
17 of the organization who agreed with the KANOKOGI
18 opinion.

19 A (continuing) I and a few other members of
20 the society, however, believed that the Three Peoples
21 Principle as advocated by Sun Yat-sen created a sort
22 of a thought system, and contended that unless we
23 members of the society approved of the Three Peoples
24 Principle then we would be running contrary -- that
25

1 we would be inconsistent with our advocacy of the
2 Greater Asia principle. If we were to approve of it
3 and make the Greater Asia Principle the basis of our
4 society, then it followed that we must approve also
5 of the Three Peoples Principle. That was the conten-
6 tion held by me and a few other members of the society,
7 and this General MATSUI supported.

8 THE PRESIDENT: We will adjourn until
9 half-past one.

10 (Whereupon, at 1200, a recess
11 was taken.)
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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

6

7

8

THE PRESIDENT: With the Tribunal's permis-
sion, the accused SHIMADA will be absent from the
courtroom for the whole of the afternoon session
conferring with his counsel.

9

10

Counselor ITO.

11

12

13

14

T A K E Y O N A K A T A N I, called as a witness
on behalf of the defense, resumed the stand
and testified through Japanese interpreters
as follows:

15

16

DIRECT EXAMINATION

17

BY MR. ITO (Continued):

18

Q Mr. Witness, please continue your reply.

19

20

21

22

23

24

25

A Then I shall continue my testimony with
regard to General MATSUI's attitude toward the
Three Peoples Principles. With the establishment
of the Nanking Regime under the leadership of Mr.
Wang Ching-wei around February 1940, and in connec-
tion with that establishment the Three Peoples
Principles again arose as a realistic question. At
that time there was in the government in connection

1 with the disposition or settlement of the China In-
2 cident, an advisory body called the East Asia Com-
3 mission of which General MATSUI and I were members
4 representing the civilian population or non-
5 governmental groups.

6 In connection with an inquiry addressed by
7 the government to the commission pertaining to the
8 ideological basis for the settlement of the China
9 Incident, the commission recommended the acknowl-
10 edgment of the Three Peoples Principle as the
11 foundation upon which to strengthen collaboration
12 between China and Japan. Within the government
13 itself there was some opposition to the recognition
14 of the Three Peoples Principle at that time. For
15 instance, Lieutenant General YANAGAWA, Director-
16 General of the China Affairs Board, was very strongly
17 opposed to recognizing these principles. In connec-
18 tion with this, the Director of the Political Affairs
19 Bureau of the China Affairs Board, General SUZUKI,
20 the same SUZUKI who is in the accused box, strongly
21 prevailed upon his superior, Director-General YANA-
22 GAWA, to accept the recommendation made by the East
23 Asia Commission which, as I mentioned before, was
24 the advisory organ to the government, resulting in
25 the adoption of the recommendation made by the

1 commission.

2 That is all, sir.

3 MR. ITO: You may cross-examine.

4 BRIGADIER NOLAN: May it please your Honor--

5 THE PRESIDENT: Brigadier Nolan.

6 CROSS-EXAMINATION

7 BY BRIGADIER NOLAN:

8 Q Mr. NAKATANI, you were a standing trustee
9 of the Great Asiatic Society from 1933 to 1941?

10 A Yes, I was.

11 Q And General MATSUI was one of the founders
12 of this society?

13 A Yes, one of many founders.

14 Q What offices did he hold in that society
15 from its beginning in 1933?

16 A In my recollection General MATSUI was during
17 the period 1933 to 1936 one of a number of advisory
18 counselors of the organization. After that General
19 MATSUI became the president of the society.

20 Q And when did he cease to be president?

21 A In my recollection General MATSUI resigned
22 from the Greater Asia Society at the time the society
23 was merged into the East Asia League; that is to say,
24 in Japanese the Koadomai, an auxiliary organization
25 of the Imperial Rule Assistance Association.

1 Q In what year was that?

2 A I think it was around August 1941.

3 Q Now, Mr. NAKATANI, you mention in your affi-
4 davit the organ magazine published by the society
5 and called "Pan Asianism?"

6 A Yes.

7 Q And you were the editor and publisher of
8 that magazine for what period?

9 A I was only nominally the editor and did not
10 actually edit the magazine.

11 Q You were in fact the publisher and did pub-
12 lish the magazine?

13 A The actual publication was handled by the
14 members of the staff, but I was responsible for the
15 publication.

16 Q During what period?

17 A Generally from about 1933 to 1936 I was
18 responsible for the publication of the magazine.
19 But after the latter date I made frequent trips
20 abroad, particularly to China, and did not partici-
21 pate in the publication.

22 Q Did you write for the publication, Mr.

23 NAKATANI?

24 A Yes.

25 Q Did you write editorials or articles, or both?

1 A From time to time I contributed treatises
2 or essays. And I have also written signed editorials,
3 that is, as a preface to the issue.

4 Q And did these editorials reflect the views
5 of the association?

6 A Not necessarily so.

7 Q Did they reflect your views?

8 A There were cases in which only my own per-
9 sonal views were expressed, and in other cases when
10 the views of many of the members were expressed.

11 Q I take it that the society did not publish
12 editorials or articles which ran contrary to the
13 views of the society?

14 A The magazine did not publish similar views
15 only, and frequently views which were contrary to those
16 entertained by a majority of the members were also
17 printed as individual or personal views.

18 Q Were all the contributors to the magazine
19 members of the society?

20 A In some cases members of the society; in
21 some cases articles were contributed by nonmembers.

22 BRIGADIER NOLAN: Now, may the witness be
23 shown IPS document No. 2394.
24

25 (Whereupon, a document was handed
to the witness.)

1 Q What is that document, Mr. NAKATANI?

2 A "Greater Asia Principles." Will you wait
3 just one moment please?

4 THE INTERPRETER: The witness said: "I am
5 prepared, Mr. Prosecutor."

6 Q Is that the magazine to which we have just
7 made reference?

8 A Yes.

9 Q And is it the October 1940 issue of the maga-
10 zine?

11 A Yes.

12 BRIGADIER NOLAN: I ask to have marked for
13 identification the October 1940 issue of the "Dai-
14 Asia-Shugi" magazine.

15 CLERK OF THE COURT: Prosecution document 2394,
16 being the "Dai-Asia-Shugi" magazine, October 1940,
17 will receive exhibit No. 3405 for identification only.

18 (Whereupon, the document above referred
19 to was marked prosecution exhibit 3405 for
20 identification only.)

21 BRIGADIER NOLAN: May the witness be shown,
22 please, exhibit 3405 for identification only?

23 (Whereupon, a document was handed
24 to the witness.)

25 Q Was the first editorial in that issue of the

1 Q What is that document, Mr. NAKATANI?

2 A "Greater Asia Principles." Will you wait
3 just one moment please?

4 THE INTERPRETER: The witness said: "I am
5 prepared, Mr. Prosecutor."

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16 being the "Dai-Asia-Shugi" magazine, October 1940,
17 will receive exhibit No. 3405 for identification only.

18 (Whereupon, the document above referred
19 to was marked prosecution exhibit 3405 for
20 identification only.)

21 BRIGADIER NOLAN: May the witness be shown,
22 please, exhibit 3405 for identification only?

23 (Whereupon, a document was handed
24 to the witness.)

25 Q Was the first editorial in that issue of the

1 magazine written by you?

2 A Yes.

3 BRIGADIER NOLAN: I ask to have marked in
4 evidence, or to place in evidence the excerpt from
5 exhibit 3405 which has been marked for identification.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Prosecution document
8 2394, being an excerpt from exhibit 3405 for identi-
9 fication only, will receive exhibit No. 3405-a.)

10 (Whereupon, the document above re-
11 ferred to was marked prosecution exhibit
12 No. 3405-a and received in evidence.)

13 BRIGADIER NOLAN: I will now read, with the
14 permission of the Tribunal, exhibit 3405-a.

15 "Historical Significance of Advancing
16 Troops into French Indo-China.

17 "Taken from the October issue of the 'Dai-
18 Asia-Shugi'

19 "The Imperial troops have advanced into
20 French Indo-China. We, the Japanese residents in
21 Shanghai, where international tensions are more com-
22 plex, are naturally more deeply impressed by this
23 good news than those who live in the homeland. Both
24 the Chinese and the Occidentals living in the con-
25 cession must have been shocked as they have never been,

1 since the landing of a million Japanese troops in
2 Hang Chow Bay, when they looked up at the ad balloon
3 fluttering high in the autumn sky on the bank of the
4 Whangpoo River stating 'Japanese troops have ad-
5 vanced into French Indo-China'. Truly, the advance
6 of the Imperial troops in French Indo-China not only
7 opens a new phase in the situation of the Sino-
8 Japanese Incident, but also marks off a turning
9 point in the situation of the whole of East Asia.
10 It may be true, indeed, that this was planned and
11 executed as a way to dispose of the China Incident.
12 However, there is no knowing how great and extensive
13 the significance and the consequences of the Imperial
14 troops' advance into French Indo-China may be. Four
15 years have passed since the Sino-Japanese Incident
16 started, but this is the first time that the Imperial
17 Army has ever taken action in territory outside that
18 of China. This really is the first time since the
19 outbreak of the Sino-Japanese hostilities that the
20 Imperial Army has been able to hoist the glorious
21 colors in a colony which Europeans rule and in terri-
22 tory which European forces defend. We cannot but
23 be extremely satisfied with the fact that the Sino-
24 Japanese conflict, as a war to emancipate Asia, has
25 now at last taken up the real issue.

1 "There is no need to comment on how the
2 French governed in French Indo-China, and in what
3 circumstances the poor Annamese were. We cannot
4 help being impressed by the greatness of the Divine
5 Light when we imagine the natives of French Indo-
6 China overjoyed by the fact that their place too
7 has been favored with the august virtue of His
8 Majesty and preparing foods and drinks to welcome
9 the Imperial troops. And the feeling of the people
10 in French Indo-China immediately reflects that of
11 the people of Burma. French Indo-China and Burma
12 are within hailing distance of each other. Some
13 day in October, the term of prohibiting aid to
14 Chiang Kai-shek through Burma will expire. However,
15 rather than use the above prosaic term it is more
16 elegant and historically truthful to say that within
17 fifty or sixty days the people of Burma will have the
18 opportunity of basking in the august virtue of His
19 Majesty. We feel pity when we consider the motive
20 which drove England and America into trying all
21 possible means to obstruct the advance of the Imperial
22 troops into French Indo-China. When we realize that
23 the advance of troops into French Indo-China was
24 executed in spite of the intrigue, hindrance and
25 intimidation of Britain and America, the historical

1 significance and political merits of advancing into
2 French Indo-China becomes doubly great. Britain was
3 displaying an attitude to threaten the Japanese
4 advance southward by lending the Singapore Naval Base
5 to America and by forming a united military front
6 including America, England, and Australia. The fact
7 that the Imperial Army triumphantly carried out the
8 stationing of troops in French Indo-China in spite
9 of this has a tremendous psychological effect on the
10 Chinese. The impression that although Japan can
11 assert authority over China, she cannot compete with
12 Britain and America, especially with America recently,
13 has immeasurably fostered among the Chinese people
14 the feeling of contempt for the Japanese, thus creat-
15 ing a spiritual obstacle in establishing the New Order
16 in East Asia. The Chinese interpret the numerous
17 disgraceful local events brought about in order not
18 to arouse American nervousness as proof of Japan's
19 inability to stand up against America. It cannot be
20 denied that the Japanese troops' daring advance into
21 French Indo-China in the face of the objections and
22 threats from America has contributed tremendously to
23 straightening out the thinking of these Chinese, and
24 to some extent of the Japanese, too. To Chungking,
25 this psychological shock must have been greater than

1 the loss suffered from the intercepting of trans-
2 portation of materials. There is no need to mention
3 the indirect influences, caused by the advance of
4 the Imperial troops into French Indo-China, upon the
5 trend of ethnic movements in French Indo-China, Siam,
6 Burma and other countries. Thus, the advance of the
7 Imperial troops into French Indo-China, as far as its
8 historical significance goes, means a few steps ad-
9 vance toward the war to liberate Asia. This may not
10 be the actual intention of our authorities. However,
11 this is the way history is always made."

12 Signed, "NAKATANI."

13 That is all I have.

14 THE PRESIDENT: Is there any re-examination?

15 MR. ITO: No, your Honor.

16 May the witness be released under the usual
17 terms?

18 THE PRESIDENT: He is released accordingly.

19 (Hereupon, the witness was
20 excused.)

21 MR. ITO: Next, we offer a book entitled
22 "The Annual Report by the Greater Asiatic Association,"
23 published in April 1940, for identification only.
24

25 CLERK OF THE COURT: The book entitled,
"Annual Report by the Greater Asiatic Association,"

1 published in April 1940, will receive exhibit No.
2 3406 for identification only.

3 (Whereupon, the book above re-
4 ferred to was marked defense exhibit No.
5 3406 for identification.)

6 MR. ITO: We offer in evidence defense
7 document No. 2234, two excerpts from the book.

8 The first, entitled "Prospectus for the
9 Establishment of the Greater Asiatic Association,"
10 will prove that the Great Asia Doctrine of General
11 MATSUI is purely a cultural movement based on the
12 rule of right (ODO) for the rise of Asia, for friendly
13 relations between China and Japan by peaceful means,
14 and is not a doctrine of aggression with military
15 might.

16 The second, entitled "Brief Outline of the
17 Undertakings by the Headquarters of the Chinese
18 Greater Asiatic Association is a general report of
19 the Headquarters of the Chinese Great Asia Associa-
20 tion. This will prove that the Chinese Great Asia
21 Association was not a branch of the Japanese Great
22 Asia Association, but was an entirely independent
23 organization founded by leading citizens in North
24 China on the Great Asia Doctrine of the late Dr.
25 Sun Yat-sen, and also that the testimony of

1 prosecution witness Chin Te-chun on that association
2 differs from the facts.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 2234
5 will receive exhibit No. 3406-A.

6 (Whereupon, the document above
7 referred to was marked defense exhibit
8 No. 3406-A and received in evidence.)

9 MR. ITO: I shall read these documents.

10 "Excerpt from 'The Annual Report of the
11 Greater Asiatic Association.'

12 "Prospectus for the Establishment of the
13 Greater Asiatic Association.

14 "The Manchurian Incident has been causing
15 an epoch-making change and turn in the political
16 circles of the world. The independence of Manchukuo
17 as the latest country in the world is a great wonder
18 in the post-war international political history. And
19 yet, the appearance of independent Manchukuo is
20 nothing but a prelude to the world-historic changes
21 to be occasioned successively.

22 "The autonomy of East Asia must be firmly
23 established next to the independence of Manchuria.
24 The liberty and glory of Asia, mother of civilization,
25 must be restored in quick succession to the founding

1 of a new righteous government. Formerly, Manchuria
2 served as the last defensive fortress in Asia
3 against the European conquest of the world. Now,
4 Manchuria has been strengthened and unified into
5 one nation. The construction work of Pan-Asiatic
6 union and reorganization must be started on the
7 premise of this new Far Eastern situation.

8 "2. Methinks, Asia is clearly one con-
9 solidated body of the same destiny from cultural,
10 political, economical, geographical, and racial
11 standpoints. Real peace, welfare and development of
12 various Asiatic races can be possible only upon the
13 realization of one unity of Asia and all the races'
14 organic unification. Opposition and struggle against
15 each other among the nations of Asia afford the
16 fittest opportunities of interference from the out-
17 side, and only accelerate the heavy oppression for
18 themselves which has been burdened on Asia. In order
19 to root out the opportunities for struggles among
20 one another, and exclude the interference and separa-
21 tion from without, it is absolutely necessary to try
22 to organize and put various Asiatic races, now in
23 broken-up conditions, into one solid unity. To add
24 to this, the broken-up conditions and separation of
25 Asia are not only misfortunes of Asia herself but of

1 the world peace, for they are apt to stimulate the
2 ambition and greed of Europe or America. The estab-
3 lishment of order in Asia through the independent
4 endeavor of Asiatics is truly a prerequisite to the
5 stabilization of world affairs on an unshakable founda-
6 tion.

7 "3. This being so the grave responsibility
8 for the reconstruction of and the establishment of
9 order in East Asia is a task which must be borne on
10 Japan's shoulders. Already, quarter of a century
11 ago we staked our national destiny and brought to
12 naught the great waves of invasion of Asia on the
13 part of the Russian Empire and saved all Asia from
14 the fate of being overthrown and destroyed, thereby
15 affording all the coloured races an opportunity to
16 raise their heads. Now the human history is just
17 at an important turning point after the settlement
18 of the Manchurian Incident. It is time that our
19 Imperial Japan should make further one step towards
20 the reconstruction and consolidation of Asia, enlarg-
21 ing the world-historical significance of Russo-
22 Japanese War and pouring all her cultural, political,
23 economical and organizing power. For it is the only
24 way of spreading our fundamental policy of the Empire
25 all over the Four Seas conforming with our Imperial

ideal, to improve the present frame of international
1 relation where Europe alone is playing the part of
2 important character with our power leading the in-
3 dependence and consolidation of various Asiatic races,
4 and to establish a new world order based on the princi-
5 ple of equality of human kinds and equal possession of
6 world resources. The forming of Great East Asia Union
7 is a historical duty to which we are now facing.

8 "4. Considering from the development of
9 international politics, the formation of Great East
10 Asia Union is a natural result. It is an inevitable
11 consequence for human society that various nations
12 which are much alike with one another from the
13 standpoint of zone, culture, and race, wish to form
14 a political and economical union.

15 "On the contrary, it is unnatural and im-
16 possible to step over a racial state to world state.
17 Accordingly, it is an inevitable consequence that
18 the League of Nations, as a pan-world union, which
19 happened to be organized at an opportune time of the
20 First Great War without any maturity of historical
21 factors, should be changed fundamentally by pan-
22 continentalism and pan-racialism. In spite of the
23 serious efforts of signatories, the League of Nations
24 was not only powerless to settle international
25

1 complications, and to alleviate international struggles,
2 but the efforts themselves to alleviate international
3 struggles proved to give the spur to them. The rea-
4 son lies in the fact that there was something funda-
5 mentally wrong with the League of Nations that,
6 neglecting the above-mentioned development of inter-
7 national politics, took its ground on idealistic
8 cosmopolitanism. The international politics and
9 economy at present and in the future are likely to
10 be managed by intricate oppositions and antagonism
11 among various pan-continental and pan-racial state
12 groups, such as European Union, Asiatic Union,
13 American Union, Soviet Union, and Anglo-Saxon Union.
14 The construction of the new world peace should be
15 based on the condition of coexistence of such various
16 groups.

1 "Thus the fomration of the Great East Asia
2 Union is not only indispensable to the present Asia,
3 but is also the best and absolute way to secure the
4 real world peace. The reason why we, hereby organize
5 the Greater Asiatic Association, and we will dash on
6 undauntedly to materialize, before long, the Great
7 Asia Union putting all nations in Asia together, by
8 our serious efforts to investigate culture, politics,
9 economy and other matters in all states of Asia, to
10 promote friendly relations between Japan and other
11 states in Asia, and to introduce and spread the
12 Japanese culture to the other nations, is in the
13 fact that we believe this is the best and absolute
14 way indeed to contribute to the progress of human
15 culture and to secure the world peace. We shall deem
16 it a great favour if intelligent circles will kindly
17 approve and help us.

18 "The Organizing Committee of the Greater
19 Asiatic Association.

20 "A BRIEF OUTLINE OF THE UNDERTAKINGS BY THE
21 HEADQUARTERS OF THE CHINESE GREATER ASIATIC ASSOCIATION

22 "...during the year 1936

23 "The visit to North China in November 1935
24 by Councillor MATSUI and Secretary WAKATANI had given
25 rise to the movement, among the leading Chinese both

1 of official and civilian circles, toward establishing
2 the Greater Asiatic Association there. A preparatory
3 commission, therefore, was decided to be formed for
4 the establishment of the Chinese Greater Asiatic
5 Association by those influential members of the
6 political, business and literary circles, and a meet-
7 ing was held by the promoters for its establishment
8 at Hsi-hu Hotel, Ma-chang tao Street, Tientsin City
9 on December 1st of the same year. The following
10 declaration and agreement were passed unanimously;
11 Mr. Li Sheng-to and Mr. Kao Ling-wei were nominated
12 president and vice-president respectively; Messrs.
13 Sung Che-yuan, Han Fu-chu, Chin Te-chun, Hsiao Chen-
14 ying and Cheng Ku were decided to be joined as
15 supporters. Future line of policy, liaison with the
16 Tokyo Greater Asiatic Association etc. were discussed
17 on that occasion.

18 "Declaration of the Chinese Greater Asiatic
19 Association.

20 "In former times, China defended herself by
21 closing her doors to foreigners, aware only of her-
22 self and knowing but little of the world situation.
23 In recent times, traffic and communication have been
24 opened to every corner of the world, numberless
25 countries have been founded and their intercourse and
intercommunication are getting more and more

1 intense. Judging from these facts, China cannot
2 remain obstinately closed to the outer world any
3 longer; considering her present national power, she
4 cannot hope for isolated independence either. It
5 may be said that China has hitherto been enabled to
6 stay within her own boundaries; hereafter China
7 ranks among the world powers. The circumstances
8 having already been changed, there must follow
9 altered national policy to cope with the changed
10 situation. This is why in recent years China has
11 heroically stood firm and rendered service as a
12 member of the international organization. There
13 remains no room for doubt as to this. Nevertheless,
14 during the past sixty years, western powers have
15 gradually shifted their sphere of influence eastward,
16 bringing storm and stress to the Asiatic nations.
17 This is a common knowledge shared by those who are
18 versed in the modern world history. Our Asiatic
19 nations, however, are quite at a loss what to do,
20 ignorant of how to share the fortune and misfortune
21 of one another; they do not try to help one another
22 in order to relieve their hardships. On the contrary,
23 they quarrel among themselves as brothers do to
24 their disadvantage, only to repent bitterly after
25 biting each other in vain. Why do they not unbosom

1 themselves to one another and be united by the tie
2 of common interest? The day has come when each
3 Asiatic nation should be awakened up to the situation.
4 Asia is the Asia for the Asiatics. Such being the
5 circumstances, all Asiatic nations should pledge by
6 all means to be united together for the establishment
7 of firm and concrete foundations in Asia on which
8 they are enabled to stand up and exchange their
9 opinions freely in the pursuit of their common
10 interests. This is what the Asiatics should at
11 once set to work to study and investigate. Of all
12 the nations in Asia, China is large and Japan is
13 strong; these two bear heavy responsibilities upon
14 their shoulders. How lagging the progress is on our
15 part! Japan has already established the Greater
16 Asiatic Association. Can we Chinese nation rest
17 tranquil in a haze? With the sympathy and support
18 of those interested in this matter, we have now
19 established the Chinese Greater Association in
20 Tientsin. Hereby we make our special declaration
21 and make clear the object of our association."

22 Mr. Mattice will continue with the evidence.

23 THE PRESIDENT: Mr. Mattice.

24 LR. MATTICE: I would like to offer in
25 evidence, if the Tribunal please, defense document

1 No. 2500.

2 This is part of a treatise entitled, "The
3 Establishment of Manchuria for Manchurians," which
4 MATSUI, Iwane wrote in the June 1932 issue of
5 "The Great Asia Principle," the organizational
6 publication of the Great Asia Association.

7 by this it will be shown that MATSUI
8 denounced Japanese interference in Manchuria and
9 emphasized that Manchuria should be developed
10 politically as well as economically by Manchurians
11 for Manchurians.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Defense document 2500
14 will receive exhibit No. 3407.

15 (Whereupon, the document above re-
16 ferred to was marked defense exhibit No. 3407
17 and received in evidence.)

18 MR. MATTICE: I will now read exhibit No.
19 3407:

20 "EXCERPTS OF THE FIRM ESTABLISHMENT OF
21 'MANCHURIA FOR MANCHURIANS'

22 "Iwane, MATSUI

23 "4th Paragraph

24 "In my opinion, we can never hope for the
25 true collaboration between Japan and Manchoukuo, unless

1 we deal with Manchoukuo in a spirit of broad-mindedness
2 which will accelerate the voluntary and independent
3 development of Manchoukuo. Unless the true collabo-
4 ration between these two countries is soon realized,
5 the administration based upon Greater Asia Principle
6 will come to naught in the end. The Japan-Manchoukuo
7 collaboration does not mean for the Japanese to
8 interfere with Manchoukuo arbitrarily. It means,
9 however, for these two countries to co-operate with
10 each other for the attainment of their common aim
11 with a mutual high regard for its voluntary independence.
12 The more we value its independence, the more strongly
13 united these two countries will be. The completion
14 of administration, the development of industry, or
15 the improvement of culture, and the execution of the
16 foreign policy must be furthered and accelerated by
17 Japanese people's effort for becoming true members
18 of the new Manchoukuo State itself, its same flesh
19 and blood, or its cells. The means of promoting the
20 independent activities of Manchoukuo and Manchurians
21 by narrowing, limiting, or gradually removing the
22 administrative activities which are under the Japanese
23 Empire's direct control and the privileged positions
24 which have been occupied by the Japanese who have
25 not become Manchurians, is to be considered with the

1 exception of the military matters which have been
2 provided in the Japan-Manchoukuo protocol. In
3 short, deep considerations must be given by the
4 Japanese government and people in regard to the
5 matter of strengthening and thorough spreading of
6 the idea 'Manchurians themselves.' Furthermore, it
7 is needless to say that we do not mean here Manchurians
8 by the former Chinese. We do not point out, by the
9 word, Manchurians, only the Manchurian and Mongolian
10 tribes who have originally resided. We mean by them
11 the Manchurian subjects who included Japanese,
12 Koreans, and Russians who have been living in that
13 country together with the above tribes. The
14 continental development of the Japanese nation can
15 be put into effect only after the Japanese residents
16 there should devote themselves to Manchoukuo as the
17 true Manchoukuo subjects and also with this country
18 as their new state of Manchoukuo."
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1 I offer in evidence defense document 2625.
2 This is part of a lecture by MATSUI, Iwane, which
3 appeared in the "Great Asia Doctrine," the organ-
4 izational publication of the Great Asia Association.

5 This will prove that the Greater Asia
6 Doctrine which he advocated did not mean to boycott
7 Americans and Europeans from Asia, but that it was a
8 doctrine of East-West brotherhood, stressing peace-
9 ful friendship between them instead of armed aggres-
10 sion.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Defense document No.
13 2625 will receive exhibit No. 3408.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 3408 and received in evidence.)

17 MR. MATTICE: Reading exhibit 3408:

18 "OUR GREATER ASIA PRINCIPLE

19 "IWANE MATSUI

20 "This manuscript represents the gists of
21 lectures made by Councillor MATSUI on Greater Asia
22 Principle at the meetings which were held at various
23 places in Kyushu at the end of May, 1936.

24 "II

25 "On looking back the present situation in

1 Asia, nothing is of more urgent need than the adjust-
2 ment of problems between China and Japan which are
3 considered to be the center of Asia in order to see
4 the establishment of the Asiatic union successfully
5 realized. On the contrary, however, the state of
6 affairs between China and Japan is a very unfortunate
7 one with repeated struggles and continued antagonism
8 between the two. Therefore, the most urgent task
9 for the Asiatic movement of the day is to investigate
10 these causes and to carry out the drastic improve-
11 ment.

12 "In addition, there is something, which I
13 wish to make clear concerning our intentions at
14 this opportunity. It is because our Greater Asia
15 Principle has often been misunderstood on some
16 points by the people in general and I consider it
17 necessary for us to prevent them from misunderstand-
18 ing such points. Firstly, Western peoples have often
19 criticized our movements saying that they are based
20 upon the so-called Oriental Monroe Doctrine. What
21 we call the Greater Asia Principle is, however, never
22 the Oriental Monroe Doctrine. On the contrary, it
23 is an entirely opposite advocacy. It is the West
24 and East brotherhood principle or the world co-
25 existence principle. Furthermore, in these days,

1 such words as the 'Japan-Manchukuo Economic Bloc,'
2 or the 'Sino-Japan-Manchukuo Bloc' have frequently
3 been used by the world people. The Greater Asia
4 Principle too has often been misunderstood as if it
5 were a co-called bloc principle like the above. This
6 however is absolutely never the object of the Greater
7 Asia Principle in which we place our perfect confidence.

8 "In the present situation in the world,
9 people go by the economic bloc principles. Not only
10 in England and America, but also in all other big
11 Powers in the world, people are competing with one
12 another, on the basis of their economic bloc prin-
13 ciple. In order to meet the present situation, we
14 are obliged to take temporarily the means of bloc
15 economy, but this is not what we are aiming at. The
16 economic policy that we are sincerely hoping for is
17 the world co-operative economy or the free economy.

18 "Further I should like to speak out most
19 frankly that our Greater Asia Principle does not
20 necessarily mean the entire expulsion of the
21 Europeans and Americans from all the places in Asia.
22 We pay our respect to the cultural efforts made by
23 Europeans and Americans in Asia for the past century,
24 and we do not wish for the destruction of their
25 present political and economic state of affairs.

1 In other words, all Europeans and Americans who under-
2 stand the culture peculiar to Asia and will sincere-
3 ly co-operate with us for the benefit of the Asiatic
4 race and for the welfare of Asia are, we believe, our
5 true friends or comrades. We require Europeans and
6 Americans to gain this judgment and understanding,
7 and at the same time, strongly wish to urge the
8 original Asiatic peoples to bestir themselves great-
9 ly and in addition to reconsider their resolution to
10 the utmost of their power at this juncture.

11 "VI

12 "Among the countries in the world, there are
13 some countries which were founded by power. There
14 are again some countries which were founded by wealth.
15 As far as Japan is concerned, the same is not true.
16 Japan was founded neither by power nor by wealth.
17 Japan has been in existence solely with justice
18 since the beginning of its foundation. We are aware
19 of the true value of power and wealth for attaining
20 our just objects. We know that from olden times the
21 country which was founded by power has fallen down
22 of itself, and the prosperity obtained by wealth has
23 come to decay in due course of time. As for our
24 country, the Land of Rising Sun which has been ruled
25 by our sun goddess, she constantly keeps her principle

1 constantly unchanged, every day improves and prospers,
2 and stands entirely outside the prosperity and decline
3 of the world. This is due to the brilliancy which
4 has been produced by justice."

5 We desire to call, at this time, the witness
6 OKADA.

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2 and stands entirely outside the prosperity and decline
3 of the world. This is due to the brilliancy which
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1 T A K A S H I O K A D A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. MATTICE:

7 Q You may give your name and address to the
8 Tribunal, please.

9 A My name is OKADA, Takashi; my address is
10 Narusawa, Izu-san, Atami, Shizuoka Prefecture.

11 MR. MATTICE: Let the witness be shown
12 defense document 2670, please.

13 (Whereupon, a document was handed
14 to the witness.)

15 Q Will you look at the document which has been
16 handed to you and tell the Tribunal whether that is
17 your affidavit.

18 A This is my affidavit.

19 Q Are the matters and things stated therein
20 true?

21 A Yes.

22 MR. MATTICE: We offer this deposition in
23 evidence, if the Court please.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Defense document No.

OKADA

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2670 will receive exhibit No. 3409.

(Whereupon, the document above
referred to was marked defense exhibit
No. 3409 and received in evidence.)

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1 MR. NATTICE: I read exhibit 3409, omit-
2 ting the caption, beginning at paragraph numbered 1:

3 "(1) I studied the Chinese language and the
4 current history of China at the TOA LOBUN SHOIN (East
5 Asia's Common Language College) and after graduating
6 from the same college I became a lecturer at the
7 Shanghai Political Middle School. Through this
8 career, I have made many friends and acquaintances
9 among important Chinese people.

10 "(2) As my deceased father was an intimate
11 friend of General MATSUI's, I have been well acquaint-
12 ed with the General since my childhood.

13 "Prior to his departure from Tokyo in August,
14 1937, as Commander of the Expeditionary Force to Shang-
15 hai, the General called me to his house at Omori and
16 told me that he wanted to take me to Shanghai to assist
17 in his work as a non-regular official attached to his
18 headquarters. I consented. Concerning my duties, the
19 General said as follows:

20 "I have been a faithful follower of the
21 late General KAWAKAMI, Soroku, a senior leader of the
22 Japanese Army, and of Dr. Sun Yet-sen, "National
23 Father of China" and have endeavored for the past few
24 decades for the friendship and coalition of Japan and
25 China the sake of emancipation and renovation of Asia.

1 Despite the earnest efforts of mine and my friends,
2 this unhappy Incident has taken place between the two
3 countries, and I am now filled with strange emotion
4 on being appointed quite unexpectedly as Commander of
5 the Expeditionary Force.

6 "The reason for installing an old man like
7 me out of the reserve list into this post of import-
8 ance seems that, instead of aiming at the achievement
9 of glorious military feats, I, with my thorough know-
10 ledge and warm love for China, hoped to settle the
11 Incident absolutely on the non-aggravation principle
12 and at the least possible sacrifice on either side.

13 "It is of course necessary to demand a
14 responsible attitude from the Chinese authorities who
15 have violated the Japanese rights and interests and
16 endangered the lives and property of our residents in
17 Shanghai by all manner of antagonistic and insolent
18 actions against Japan. However, it is a concurrent
19 result of long accumulated causes that has led up to
20 the present open dispute, and both Japan and China
21 should be responsible for that. I am sincerely anxious
22 to have this earnest desire of mine thoroughly under-
23 stood by both nations and open a way for reconciliation
24 with the least possible fighting.

25 "Therefore when you land at Shanghai, it will

1 Despite the earnest efforts of mine and my friends,
2 this unhappy Incident has taken place between the two
3 countries, and I am now filled with strange emotion
4 on being appointed quite unexpectedly as Commander of
5 the Expeditionary Force.

6 "The reason for installing an old man like
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15 have violated the Japanese rights and interests and
16 endangered the lives and property of our residents in
17 Shanghai by all manner of antagonistic and insolent
18 actions against Japan. However, it is a concurrent
19 result of long accumulated causes that has led up to
20 the present open dispute, and both Japan and China
21 should be responsible for that. I am sincerely anxious
22 to have this earnest desire of mine thoroughly under-
23 stood by both nations and open a way for reconciliation
24 with the least possible fighting.

25 "Therefore when you land at Shanghai, it will

1 be your first duty to get in touch with as many Chinese
2 influentials as possible and tell them that Commander
3 MATSUI never wants to fight with China, that he will
4 see to the safety of their lives, property and all else
5 during the fighting and will endeavor for a prompt
6 solution of the unhappy Incident with the hope that
7 they will render him cooperation and assistance therein.'

8 "The General went on saying: 'If necessary,
9 we could defeat a large enemy with a smaller and
10 poorer equipped force by skilful use of tactics. But
11 that would be only for a military victory and the result
12 in the long run would be disastrous, because forced
13 fighting necessarily requires great sacrifices of human
14 life and undue hostile feelings from the soldiers. It
15 is therefore more desirable to win an immediate end
16 overwhelming victory by using sufficient numbers of
17 well-equipped troops and thereby avoid prolongation of
18 tragic fighting. This is the most effective way to make
19 our non-aggravation principle really work for the
20 immediate restoration of peace.

21 "I have therefore requested our Government
22 to provide me with at least five divisions, but the War
23 Minister has decided that three divisions will be
24 sufficient. I regret the War Minister's lack of know-
25 ledge of the recent conditions in China and cannot help

1 feeling uneasy about the fate of our non-aggravation
2 policy.'

3 "(3) I landed in Shanghai at the end of
4 August when the Incident was at the very initial stage.
5 (Commander MATSUI was then still on board the ship).
6 I at once looked for my Chinese acquaintances in the
7 Concessions in order to communicate to them Commander
8 MATSUI's intention. (I kept communications with the
9 Commander through Mr. HARADA, Kumakichi, Chief of the
10 Special Service Division.) I found opportunities to
11 talk with Mr. Tang Shao-i, a great senior friend of
12 mine and veteran statesman of China, and also with Mr.
13 Li Tse-i, who was well informed of the circumstances of
14 Japan. We talked about and actually worked in concert
15 for the elimination of the distressful Sino-Japanese
16 relations.

17 "I also tried to get in touch with Mr. Tu
18 Yueh-shang, my father's friend, and ask for his help
19 for the preservation of peace and order in Shanghai,
20 which was then an international city, but could not get
21 a chance before his departure for Hongkong.

22 "(4) Accompanying the Army Commander, I went
23 to his headquarters in Soochow on the 6th of December.
24 On his arrival at Soochow, General MATSUI had a note
25 advising the Chinese army to immediate surrender and

1 had bills bearing the same note scattered over the walled
2 city of Nanking from the air on December 9. His pur-
3 pose was to capture the city without bloodshed and with
4 the least possible destruction of the capital. At
5 the same time he took precautions against rash attacks
6 on the city by different army units, each striving to
7 be the first to enter the city and thereby causing
8 unnecessary destruction of the city and aggravation of
9 the suffering of the citizens. So he issued orders
10 on or about December 9, if I remember right, for all
11 the units under his command to stop the general attack
12 and stand in their positions around the city under the
13 issue of further orders. At the same time he gave instruc-
14 tions to the entire army to see to the safe preserve-
15 tion of the Chung-shan Ling (Dr. Sun Yat-sen's tomb)
16 and various cultural establishments in the neighborhood
17 as well as of foreign rights and interests, and also
18 to maintain strict military discipline.

19 "I was suddenly called into the staff-officers'
20 room late at night (about 2:00 A.M.) of December 8 and
21 was made to translate into Chinese a note of the follow-
22 ing purport:
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1 "Your answer to our written advice for sur-
2 render shall be waited for at the sentry line on the
3 Nanking - Chuyang Road outside the Chungshan Gate at
4 noon of December 10. If your army send responsible per-
5 sons representing your Commander in Chief to the ap-
6 pointed place, we are prepared to negotiate with them
7 concerning agreements for the taking over of the city of
8 Nanking. If, however, we do not have your answer by
9 the designated hour, our troops will be obliged to
10 begin attacking the city.'

11 "The above note was written on bills and cast
12 down within the walls of Nanking from the air, together
13 with the other set of bills advising surrender on
14 December 9.

15 "I started from Foochow by car on the morning
16 of December 9, together with C of S TSUKADA and staff
17 officers KIMIHIRA and NAKAYAMA, and on reaching the
18 suburbs of Nanking, we passed the night at a certain
19 unit quarters. On the following day, at 11:00 A. M.
20 we (TSUKADA, KIMIHIRA, NAKAYAMA and I) went to the out-
21 side of Chung-shan Gate and waited there for the
22 arrival of the Chinese parlementaires for two hours until
23 1:00 P.M., but they did not appear after all. So we
24 left there, and immediately after that the order for the
25 general attack was given, if I remember right.

1 "(5) When I entered the city of Nanking with
2 Lieutenant Colonel MURAKAMI soon after its fall on the
3 early morning of December 13, the city seemed to be
4 rather peaceful, considering the fact that it was
5 immediately after the furious battles. What attracted
6 our attention most was the enormous quantity of military
7 uniform and arms left by Chinese soldiers and scattered
8 on the streets. I found people taking refuge in some
9 quarters of the city and took some 50 of them to the
10 Metropolitan Hotel which was to be the Commander's
11 residence and had them help the soldiers of the ad-
12 ministrative department of the headquarters sweep and
13 clean the interior of the hotel. There refugees and
14 other peaceful citizens, who were made to work for our
15 army, received payments from the headquarters and were
16 given sufficient quantity of the remnants of the
17 soldiers' meals. So they worked willingly.

18 "At that time I remember an old man by the name
19 of Sun, about 60 years of age, who spoke some Japanese,
20 coming to our headquarters and the Japanese Consulate
21 and, by our approval, at once organizing a self-governing
22 community.

23 "(6) From December 17 on, the Commander lodged
24 at the Metropolitan Hotel and I was given a room near
25 those of the Commander. A celebration banquet was given

1 on the evening of the 17th, attended by the Commander
2 and the rest of the officers. When, on the following
3 morning, I called on the Commander in his room, he was
4 alone, and looked extremely sad. After a usual morning
5 salutation, I asked him if there had been any unpleasant
6 matter worrying him, because he did not look at all like
7 a general who had captured the enemy's capital after so
8 brilliant a victory. He quietly said, 'I have visited
9 this city of Nanking many times before for the sole
10 purpose of realizing peaceful relations between Japan
11 and China, for which I have hoped and worked for these
12 over 30 years. But I now realize that we have unknow-
13 ingly wrought a most grievous effect on this city. When
14 I think on the feelings and sentiments of many of my
15 Chinese friends who have fled from Nanking and on the
16 future of the two countries, I cannot but feel depressed.
17 I am very lonely and can never get in a mood to rejoice
18 at the victory.'

19 . "I could not help sympathizing with him when he
20 spoke to me in this grave, sorrowful tone. I knew that
21 many of leading officers in the Japanese navy and army
22 had been interested in the study of affairs concerning
23 Europe and America and were apt to despise any study of
24 China, but that General MATSUI had almost singly devoted
25 himself to Chinese questions since his youth and that his

1 promotion to the rank of general because of his merit in
2 his studies of China was indeed an exceptional case. I
3 also knew that there was no other man in the army who
4 had so many friends in China as he did.

5 "I think the feelings and sentiments of the
6 General at that time are well expressed in the Chinese
7 poem which he composed in Nanking on New Year's Day of
8 1938 and which he showed me when I called at his official
9 residence for New Year's greetings. It reads in English
10 something like the following:

11 "Riding north and south for scores of years,

12 I have worked for the renovation of Asia

13 but alas!

14 In a war camp I now greet my sixty-first year:

15 Even so, death shall not overtake my youth-

16 ful hopes.

17 "General MATSUI expounded on the poem as fol-
18 lows:

19 "Through my travels in China for scores of
20 years I have, with all my heart and strength, ever
21 prayed and worked for peace and development of Asia.
22 But on reflecting on what I have actually done, I am
23 aware of the limitations of my ability. I am now in my
24 sixty-first year and in a campaign. But my ardent hopes
25 cherished since my youthful days cannot be overtaken by

1 age. I will forever, even after my body perishes, strive
2 to accomplish the purpose.'

3 "(7) On December 19, Commander MATSUI, for the
4 purpose of inspecting the battlefields, visited Chingling
5 Hill and the Astronomical Observatory, accompanied by
6 his staff officers, and took a wide view of the city
7 from there while listening to the explanations of his
8 staff officers. The General expressed joy and grati-
9 tude at the sight of the perfect condition of the
10 Chung-shan Ling and told his officers that he was sorry
11 for the interruption of General Chiang's endeavor for
12 the unification of China. He added that if General
13 Chiang had been patient for a few years longer and avoid-
14 ed hostilities, Japan would have understood the dis-
15 advantage of trying to solve the issue between the two
16 countries by the use of arms, so that there would not
17 have occurred this tragedy of two brothers fighting
18 against each other within the same house. His staff
19 officers looked curious to hear their General talk in
20 this manner. I stood by and also listened to him.

21 "On his way back, the Commander surprised his
22 staff officers by saying that he would like to see the
23 conditions of the refugees in the neighborhood. And
24 he did go to see them. He asked them about the dangers
25 they had undergone during the fighting and various other

1 pertinent matters, and comforted them saying that
2 despite his strict orders for the soldiers to be care-
3 ful not to harm the refugees, they might sometimes find
4 themselves in trouble because of the inability of the
5 Japanese soldiers to understand their language, but
6 that the days of peace and prosperity would surely
7 come soon, so that they should be engaged in their pro-
8 fessions without anxiety.

9 "The above speech was interpreted word by
10 word by me."

11 THE PRESIDENT: This is a convenient break,
12 Mr. Mattice.

13 We will recess for fifteen minutes.

14 (Whereupon, at 1445, a recess was
15 taken until 1500, after which the proceed-
16 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Lattice.

4 MR. LATTICE: I resume reading at page 9,
5 paragraph 8:

6 "(8) The Commander greatly feared the relax-
7 ation of discipline which is apt to follow severe
8 fighting. So he warned C of S TSUKADA time and again
9 and ordered him to see to the maintenance of discip-
10 line and morale by means of strict orders and severe
11 punishment, and I was often by his side to hear him
12 giving such instructions. Later I saw some officers
13 and soldiers being sent home from Shanghai as crimin-
14 als under severe punishment.

15 "In the middle of February, General MATSUI was
16 ordered home after being discharged from his post as
17 part of the reorganization of the army. He said to
18 me then with a sigh:

19 "It is my great regret to be called home in
20 the middle of my task, which would be a far more honor-
21 able mission for me to accomplish than holding the
22 Commandership of the Army -- the task which consists
23 in stopping armed hostilities at the fall of Nanking
24 and concentrating our efforts in the reconciliation
25 with the Chinese Government without extending the

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3 THE PRESIDENT: Mr. Mattice.

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18 me then with a sigh:

19 "It is my great regret to be called home in
20 the middle of my task, which would be a far more honor-
21 able mission for me to accomplish than holding the
22 Commandership of the Army -- the task which consists
23 in stopping armed hostilities at the fall of Nanking
24 and concentrating our efforts in the reconciliation
25 with the Chinese Government without extending the

1 fighting line upstream past Nanking, but since my
2 discharge from this post has been commanded by the
3 Emperor, I must obey as a subject should.'

4 "(9) On December 21, after a few days' stay
5 in the city, Commander MATSUI left Nanking on board
6 a Japanese destroyer and returned on the 23rd to the
7 Area Army's Headquarters in Shanghai after visiting
8 the old battle-fields of Niao-lung Shan and Chenkiang
9 on his way. On board the ship with the General, I
10 had opportunities for free and leisurely conversa-
11 tions with him. The following is the gist of what he
12 said to me on this occasion:

13 '"The unhappy war between Japan and China
14 should never be allowed to spread further. In conse-
15 quence of the anti-Japanese education in China since
16 the Manchurian Incident, anti-Japanese feelings have
17 been aggravated among the military circles as well
18 as among students, with the result to endanger the
19 Japanese rights and interests and lives and property
20 of our residents in China. Accordingly, our country
21 has been obliged to appeal to arms in order to defend
22 them, and at last for force of circumstance we have
23 come to this disaster and been forced to capture the
24 Chinese capital. However, the issue between the two
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1 countries can never be solved by the sword. It may
2 temporarily, but never permanently.

3 "If we do not thoroughly clear the mutual
4 misunderstandings by peaceful steps, that is by
5 diplomatic measures, the two nations will certainly
6 fall into further and greater misfortunes. I am,
7 therefore, determined to endeavor for the establish-
8 ment of permanent peace. My mission as Commander
9 has been primarily in the working out of peace and
10 not in the military operations that I have been en-
11 gaged in so far. If military operations were the
12 only aim, there would have been no reason for picking
13 up an old man like me from the reserve service since
14 there are so many fine generals to choose from on
15 the active list.

16 "Since the two countries have got into
17 belligerent state, negotiations for peace by military
18 authorities on both sides will be more than ever dif-
19 ficult. The most desirable way, therefore, seems to
20 me that both nations should get into negotiations
21 through their respective economic representatives
22 (or cultural representatives though the former are
23 more preferable) and let them work out, quite apart
24 from military operations, a way for peace based on
25 reasonable thinking and persuade each government into

1 countries can never be solved by the sword. It may
2 temporarily, but never permanently.

3 "If we do not thoroughly clear the mutual
4 misunderstandings by peaceful steps, that is by
5 diplomatic measures, the two nations will certainly
6 fall into further and greater misfortunes. I am,
7 therefore, determined to endeavor for the establish-
8 ment of permanent peace. My mission as Commander
9 has been primarily in the working out of peace and
10 not in the military operations that I have been en-
11 gaged in so far. If military operations were the
12 only aim, there would have been no reason for picking
13 up an old man like me from the reserve service since
14 there are so many fine generals to choose from on
15 the active list.

16 "Since the two countries have got into
17 belligerent state, negotiations for peace by military
18 authorities on both sides will be more than ever dif-
19 ficult. The most desirable way, therefore, seems to
20 me that both nations should get into negotiations
21 through their respective economic representatives
22 (or cultural representatives though the former are
23 more preferable) and let them work out, quite apart
24 from military operations, a way for peace based on
25 reasonable thinking and persuade each government into

1 their view so that a peaceful atmosphere may be creat-
2 ed so effectively between the two countries that their
3 governments would eventually dissolve the state of
4 hostility without losing their respective honor and
5 credit.'

6 "I quite agreed with the above view of the
7 General, and after some discussion we decided that
8 the fittest Chinese prominent to play this role was
9 Sung Tzu-wen. As soon as I returned to Shanghai, I
10 called by the General's order on Mr. Li Tso-i in the
11 French Concession, conveyed to him the Commander's
12 intention and asked for his approval. Toward the end
13 of January Mr. Li met General MATSUI and agreed that
14 he would convey the General's message to Mr. Sung
15 and ask for his action. So I disguised myself as a
16 Chinese, and Mr. Li and I left Shanghai on board a
17 British steamer on January 4 and arrived in secret in
18 Hongkong around January 10. I stayed in Kowloon and
19 waited for the results of Mr. Li's interviews with
20 Mr. Sung. On January 15 I called on Mr. Li at Hong-
21 kong Hotel and received the following report from
22 him?

24 "Through repeated interviews with Mr. Sung,
25 it has been ascertained that Mr. Sung is almost of the
same opinion as we. He regards this unhappy incident

1 as a misfortune not only of Japan and China but of the
2 entire mankind and, therefore, the prevention of its
3 further development, as humanity's common responsi-
4 bility. If General MATSUI sincerely holds to that
5 view as representing the Japanese side, Mr. Sung is
6 ready to act on his part along this line.'

7 "I heartily thanked Mr. Li for this hopeful
8 report and returned to my hotel after requesting him
9 to go farther into concrete negotiations. However,
10 on the following February 16, the KONOYE Declaration,
11 'We ignore the existence of Chiang Kai-shek's Govern-
12 ment' was published by the Japanese Consulate General.
13 On the day after that a telegram came from Colonel
14 USUDA in Shanghai saying 'Commander MATSUI ordered to
15 change. Come back to Shanghai at once.' This finish-
16 ed everything. Thus our endeavours were all brought
17 to naught just before getting the final decision from
18 Mr. Sung.

19
20 "(10) Commander MATSUI left Shanghai on
21 February 23 and returned to Japan. A few days before
22 his departure, he invited Mr. Li and me to a supper at
23 his residence. On that occasion he said:

24 "It is to my great regret that I have lost
25 the chance to stay on in Shanghai and accomplish
peace negotiations, but after returning home and

1 being discharged of my post, I will continue my ef-
2 forts for bringing about permanent peace between China
3 and Japan as a free man MATSUI out of military uni-
4 form.

5 "I have no ambition whatsoever for honor
6 or wealth and much less for political activity. The
7 only desire I have now is to become Ambassador to
8 China and devote the rest of my life to the realiza-
9 tion of peace between the two countries. However, it
10 is very doubtful whether our government, especially
11 our military authorities, will wish my activity in
12 that field.

13 "As Army Commander, I feel responsible for
14 the fact of tens of thousands of soldiers having
15 fallen on both sides for the sake of their respect-
16 ive countries in the severe battles that we have had
17 to fight. So, as soon as I got home, I went to erect
18 a statue of Bodhisattva (Buddhist goddess of mercy)
19 and offer prayers for the eternal repose of these
20 departed souls. For the moulding of the holy statue,
21 I want to mix in the clay some of the soil which soaked
22 the precious blood of Chinese and Japanese warriors.
23 So I wish to have a handful of earth from Tachangchen,
24 where the severest of battles was fought, sent to me
25 by convenient mail.'

1 "In compliance with the above request of the
2 General, I went to Tachangchen and got a handful of
3 soil from beneath the remains of a Chinese and a
4 Japanese soldier and sent it to the General by air
5 mail. Using the earth, he got a statue of Bodhis-
6 attva made, whose noble and beautiful figure can be
7 seen today on the top of a hill near his house at
8 Izusan, Atami. Furthermore he had a temple built
9 for the statue and dedicated the same temple to the
10 souls of Chinese and Japanese war-dead, and every
11 morning, fine or foul, he climbed the hill to the
12 sacred temple and offered prayers for the repose of
13 the soldiers' souls and for eternal peace of Asia.

14 "(11) The General is a man with a strong
15 sense of justice. When I was in Fuchow in China,
16 a People's Revolutionary Government was organized in
17 Fokien province in opposition to General Chiang. At
18 that time General MATSUI was Commander of the Formosan
19 Army. When he was informed of an attempt among some
20 Japanese people to restrain the Nationalist Govern-
21 ment by supporting the People's Revolutionary Govern-
22 ment in Fokien province and of General Chiang's worry
23 about it, he declared that no Japanese should ever
24 support a government which might hinder the unifi-
25 cation of China. The Commander's determination was

1 communicated to General Chiang Kai-shck through Mr.
2 Li Tse-i who was then in Formosa, and I know General
3 Chiang was very much pleased with it.

4 "Meanwhile Staff-officer TSUCHIHASHI of the
5 Formosan Army was sent to the Pcoople's Revolutionary
6 Government in Fokien with General MATSUI's advice
7 that since civil war was most disastrous to peace-
8 ful people, the Revolutionary troops should retreat
9 with fighting with the Nationalist Army. In com-
10 pliance with General MATSUI's advice, the Revolution-
11 ary Army peacefully retreated to Canton and the
12 Nationalist Army took over Fukien province without
13 bloodshed. I was then in Fuchow and took part in
14 the affair, so I am well informed of its actual
15 circumstances.

16 "(12) The following are some instances of
17 the humaneness and kindheatedness shown by General
18 MATSUI in January of 1938 when he was in Shanghai
19 soon after the close of the battles:

20 "(A) Supreme Commander MATSUI presented
21 ten thousand yen to Jaquinet, a French missionary,
22 on January 14 for the purpose of repaying his acts
23 of charity and for the relief of the poor in the
24 Man-shih refugee quarters. Father Jaquinot had, out
25 of his humane spirit, fought for the establishment

1 of the Nan-shih refugee quarters in the northern
2 section of Nan-shih and, living in a Christian church
3 there, he himself was supervising the relief work.
4 His acts of charity had been gratefully appreciated
5 by different circles.

6 "(B) Mr. NIKAIDO, Masasuke (aged 32), a
7 teacher at the Shumei Primary School in Osaka, came
8 to Shanghai as a non-regular officer of the Osaka
9 Educational Society, bringing with him school
10 children's freedrawings, letters, and presents of
11 candies for the soldiers. When he saw Commander
12 MATSUI, the General, pointing out the fact that
13 every letter of encouragement from Japanese children
14 was full of such phrases as 'hateful Chinese' and
15 'chastisement of insolent China' betraying the low
16 level of Japanese education, strictly warned the
17 school teacher against having the children use such
18 phrases again.

19 "From these words and deeds of his, we can
20 easily understand that General MATSUI is a man who
21 never loses sight of human justice.

22 "On this 10th day of December, 1946."
23
24
25

1 MR. MATTICE: Will a Japanese copy of 2670
2 be handed the witness, please?

3 (Whereupon, a document was handed
4 to the witness.)

5 BY MR. MATTICE (Continued):

6 Q Mr. OKADA, will you look at your affidavit
7 and, if you can find it, paragraph 6. Where you
8 speak of the Chinese poem, see if you can find that
9 place.

10 A I could not hear. May I have it repeated?

11 Q Will you see if you can find in paragraph 6
12 of your affidavit the place where you speak of General
13 MATSUI exhibiting a Chinese poem?

14 A Now I understand.

15 Q In reading the English copy, I read that this
16 Chinese poem was shown you in Nanking, and I want to
17 ask you whether that is correct or whether it should
18 not be some other city than Nanking.

19 A This Chinese poem was shown to me in Shanghai.

20 Q So that your affidavit should read at that
21 point "Shanghai" instead of "Nanking"?

22 A Yes.

23 MR. MATTICE: I have an additional --

24 THE PRESIDENT: I don't know that you have
25 succeeded in doing what you set out to do. You said

1 that MATSUI composed the poem in Nanking on New Years
2 Day.

3 MR. MATTICE: My copy reads "showed me."

4 THE PRESIDENT: He may have read it over in
5 Shanghai, certainly. That's clear now. So the wit-
6 ness says.

7 Q What occurred with respect to this poem in
8 Shanghai?

9 A What do you mean by that?

10 Q Well, what, if anything, occurred with re-
11 spect to the poem? How did you come to see it?

12 A On New Years Day, 1938, I made a courtesy
13 call on General MATSUI. It was customary for the
14 General to compose a poem on every New Years Day, and
15 on this particular occasion he showed me the poem he
16 had composed that morning.

17 THE PRESIDENT: Is he purporting to read from
18 his affidavit in Japanese?

19 THE PRESIDENT: No, I am not.

20 THE PRESIDENT: I think we should refer that
21 original affidavit in Japanese to the Language Section.

22 MR. MATTICE: I have an additional question
23 or two at this time.

24 Q Where did General MATSUI have his headquart-
25 ers before the fighting at Nanking began?

1 A General MATSUI and I went to Soochow on the
2 8th of December, and on the same day I left for
3 Tangshuichen. It was the 13th when I left Tangshui-
4 chen and returned to Shanghai -- and went to Nanking.

5 Q Now, between the 8th and the 13th, what is
6 the fact about General MATSUI being able to attend to
7 the duties of his office?

8 A I couldn't quite comprehend the question.
9 May I have it repeated?

10 THE MONITOR: Japanese court report. r.

11 (Whereupon, the Japanese court
12 reporter read.)

13 A (Continuing) On the 8th, the General,
14 MATSUI, and I arrived at Soochow, and on the same day
15 I left General MATSUI and alone proceeded to Tangshui-
16 chen. At the time I parted company with General MAT-
17 SUI it appeared that he was suffering from a slight
18 cold. I do not know the details as to what General
19 MATSUI's disposition was after I left Tangshuichen and
20 went to Nanking on the 13th.

21 MR. MATTICE: You may cross-examine.

22 THE PRESIDENT: Brigadier Nolan.

23 BRIGADIER NOLAN: No questions, thank you.

24 MR. MATTICE: May the witness be excused?

25 THE PRESIDENT: He is excused on the usual

terms.

1 (Whereupon, the witness was ex-
2 cused.)

3 MR. MATICE: By request, I next offer defense
4 document 2594 in evidence. This is a photograph of
5 the inauguration of Kannondo erected by MATSUI,
6 Iwane. It makes clear the fact that he enshrined both
7 Japanese and Chinese who were killed in the China
8 Incident holding memorial services for them without
9 discrimination. It further testifies that he treated
10 both Japanese and Chinese with brotherly love from
11 the bottom of his heart.

12 THE PRESIDENT: Admitted on the usual terms.

13 CLERK OF THE COURT: Defense document 2594
14 will receive exhibit No. 3410.

15 (Whereupon, the document above re-
16 ferred to was marked defense exhibit No.
17 3410 and received in evidence.)

18 MR. MATICE: The exhibit consists of photo-
19 static copies, and there is nothing as far as reading.
20 Now, language section, reverting on the order

21 of proof to the item numbered 2, we next offer in evi-
22 dence, if the Court please, defense document 1077A,
23 1077B.
24 25

 THE PRESIDENT: Brigadier Nolan.

1 BRIGADIER NOLAN: May it please the Tri-
2 bunal, these documents were offered in evidence at
3 pages 21,431 and 21,432 of the record and were re-
4 jected. At that time the President of the Tribunal
5 said that the accused LATSUI could give this evi-
6 dence himself later. I make no objection to this
7 tender of the document other than to the first four
8 lines of document 1077A which is a gratuitous obser-
9 vation and forms no part of General LATSUI's state-
10 ment. And I make a similar objection to the first
11 four and half lines of 1077B which also form no
12 part of the statement of the General.

13 MR. LATTICE: Those paragraphs may be de-
14 leted.

15 THE PRESIDENT: Admitted on the usual terms
16 with the exception of the paragraphs objected to.

17 CLERK OF THE COURT: Defense document No.
18 1077A will receive exhibit No. 3411, and defense
19 document No. 1077B will receive exhibit No. 3412.

20 (Whereupon, the documents above
21 referred to were marked defense exhibits
22 3411 and 3412, respectively, and received
23 in evidence.)
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MR. MATTICE: Reading exhibit No. 3411.

1 "Having received the Imperial command, I,
2 with heavy responsibilities of carrying out foreign
3 expedition, landed some time ago at the Kiang-nan
4 Area which is in the south of the Yangtze River.
5 Since that time our Army's influence has been suf-
6 ficiently increased, and the devil-subduing sharp
7 bayonets are just on the point of being unsheathed
8 so as to develop their divine influence. The mission
9 of the Army, based upon the principle of the Japanese
10 Government's statement, is to fulfill all its duties
11 of protecting our rights and interests and of safe-
12 guarding Japanese residents, and to chastise the Nan-
13 king Government and the outrageous Chinese, as well
14 as to have them throw away all their anti-foreign
15 and anti-Japanese policies which are being generally
16 influenced by communism so as to establish firmly
17 the foundation for the pleasant and peaceful East
18 Asia. I deeply sympathize with the innocent people
19 in all operation areas, that is to say, although our
20 Army does not regard the people in general as its
21 enemy from the outset, yet those who would resist
22 to or injure our army, irrespective of soldiers or
23 civilians, would be punished without the slightest
24 reserve. I cannot help sympathizing with the various
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MR. MUTTICE: Reading exhibit No. 3411.

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3 expedition, landed some time ago at the Kiang-nan
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19 in all operation areas, that is to say, although our
20 Army does not regard the people in general as its
21 enemy from the outset, yet those who would resist
22 to or injure our army, irrespective of soldiers or
23 civilians, would be punished without the slightest
24 reserve. I cannot help sympathizing with the various
25

1 foreign officials and peoples who are exposed to war
2 disasters, or whose lives and properties are being
3 threatened. As for the rights and interests of the
4 powers, they have been respected as well as protected,
5 and they have never been damaged even in the slightest
6 degree. I am of the firm belief that all the Japan-
7 ese forces, ever virtuous and strong, will, with
8 perfectly united Army and Navy, most certainly
9 clear away all war clouds above all Kiang-nan area
10 and in this way will be able to establish the happy
11 dawn of peace at no distant date.

12 "General MATSUI Iwane, The Imperial Japanese
13 Army, Highest Commander of the Army in the Shanghai
14 Area, October 8th, 1937."

15 Exhibit 3412.

16
17 "It is a matter of deep regret to the two
18 nations of China and Japan that immediately after
19 the outbreak of North China Incident, the feelings
20 of the both nations began to burst out, and by force
21 of circumstance it seems that a hundred year crisis
22 is to be brought about in East Asia after the battle
23 lines were finally expanded to a great degree.

24 "At this juncture, for the good of a great
25 number of the Chinese people in and out of government
offices, I hope that the Chinese officials and people

1 would meditate and observe all the internal and ex-
2 ternal affairs, with their eyes wide open, and reflect
3 themselves over and over again recalling that principle
4 of morality for East Asia.

5 "Indeed, it means the destruction of the
6 international morality and also the disturbance of
7 the peace in the Orient that such acts as to under-
8 value Japan's real power under a spell of their
9 self-complacency principle, or to endanger their
10 existence because of their over-readiness for com-
11 munistic influence, and, furthermore, for the sake
12 of executing peace restoration movement, to utilize
13 anti-Japanese and resistance principles for the means
14 of unifying national opinion and to strengthen the
15 political powers by emphasizing most strongly the
16 necessity of advocating the above principles. Even
17 in case their principle 'Down with Japan,' which
18 they are only too ready to decry should by chance
19 be realized, I wonder whether they would still con-
20 sider that the five races of China would be able to
21 lead their happy life by so doing. There is no reason
22 why such a plain reason should not be understood by
23 them. However, it is indeed a fact of great regret
24 to me that the Chinese people in general are placed
25 in such a deplorable situation in which they cannot

1 speak out even such matters openly. My sincere hope
2 for your reflection truly lies in this very point.
3 It must be recalled, in my opinion, that Dr. Sun Chung-
4 shan, great founder of the Chinese Republic, has
5 always hoped for and endeavored to establish peace
6 in the Orient, as well as for the restoration of
7 China.

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1 "What Japan really hopes for is the coalition
2 between China and Japan, and I am of the firm belief
3 that this is truly the principle which will bring about
4 peace in the Orient. But if the thoughts or feelings
5 of the Chinese Government and people toward Japan should
6 remain just as they are, it would be necessary, to my
7 regret, to uproot all their anti-Japanese and resistance
8 movements, and to eliminate completely the fundamental
9 cause of unhappy events which are prevalent at the
10 present. The sole object of our Army rests on this
11 point, It goes without saying that the Imperial
12 Japanese Army should not be easily mobilized. It is
13 our belief, however, that, if it should rise up in
14 arms once, it is our real intention to annihilate the
15 enemy completely so as to attain the object of its ex-
16 pedition. The aim of the attack of our Army is solely
17 directed toward the Nanking Government and its Army
18 which resist Japan, but we have no intention whatever
19 to aim at the people in general for the object of our
20 operation. That is to say, the time has come for the
21 Chinese officials and people who have hitherto been
22 busily engaged in the work of the firm establishment of
23 the Nanking Military Clan Regime to return to their
24 normal state by throwing away their former illusions.
25 Hence, our Army would never hesitate to carry out a

1 great work of constructing Greater Asia hand-in-hand with
2 any country which would try to join us with sincerity
3 for the maintenance of peace in the Orient. If, however,
4 there should be some people who, under a spell of night-
5 mare, would resist us or prevent us from taking actions,
6 we should never be able to refrain from chastising them.
7 I deeply sympathize with the innocent people in general
8 who suffered from disasters of war or exposed themselves
9 to the danger of losing their lives and properties.
10 Furthermore, I hope that you would keep yourselves away
11 from all the battlefields for the time being instead of
12 being misled by groundless rumors and rest upon perfect
13 reliance for the Imperial Army especially at this juncture.

14 "All the farmers who are residing in operation
15 areas are truly to be considered as disregarding the
16 blessings of heaven and earth, for they are not taking
17 advantage of all the grains that are ripe, and that
18 they have all stopped their own works by leaving their
19 safe and peaceful houses at this good harvest time. I
20 greatly regret this fact. Some troops of our Army
21 requisitioned some grains which had been left in farm
22 houses a while ago, but the fact is that there was no
23 one for us to deal with directly, for there were no
24 inhabitants left at that time. Under such unavoidable
25 circumstances, everything has been left unsolved until

1 now. For the compensation of the above, our Army would
2 readily be responsible for its payment for them, and
3 we are simply waiting for the advent of such opportunity.
4 As it has already been mentioned above, our Army does
5 not entertain any enmity toward the harmless people.
6 And furthermore, it has been my constant desire to
7 guarantee their safety, and to safeguard their means of
8 livelihood. It is my sincere advice to all the good
9 people in the areas in the rear of battlefields where
10 our Army is garrisoned and that they will speedily
11 return to their respective farms yearning after the lands
12 where the spirits of their ancestors have been resting,
13 and will continue their own works without any anxiety
14 with perfect reliance for the Imperial Japanese Army."

15 We next offer in evidence defense document
16 No. 2628 which is an account in the Tokyo Nichi-Nichi
17 Shimbun dated November 16, 1937. This will prove that
18 General MATSUI gave humane assistance to refugees in
19 the refugees' district which was established by Catholic
20 Bishop Jacquino at Nantao, Shanghai.

21 THE PRESIDENT: Brigadier Nolan.

22 BRIGADIER NOLAN: May it please the Tribunal,
23 the prosecution objects to this document on the ground
24 that it is merely a newspaper account intended for public
25 consumption of certain events which took place in China.

THE PRESIDENT: Would you say it was repetitive?

1 BRIGADIER NOLAN: I would say that it was re-
2 petitive, sir, and I would go further and suggest that
3 it deals with conditions in a city with respect of
4 which no atrocities have either been pleaded or proved.
5

6 I also submit that it is propoganda, as is made
7 evident by the description of the opposition as being
8 the last illegal resistance of the Chinese troops.

9 We submit that extracts from journalists of
10 this nature have no probative value and should be
11 rejected by the Tribunal.

12 MR. MATTICE: I am quite familiar with the rule
13 with respect to newspaper articles. However, it seemed
14 to those of us who prepared this part of the case that
15 this was one that might be pertinent and relevant.

16 THE PRESIDENT: By a majority the objection
17 is sustained and the document rejected.

18 MR. MATTICE: Now, if the Tribunal please,
19 we have concluded the accused MATSUI's individual
20 defense with the exception of his own testimony. I was
21 informed at noon today by the physician at the hospital
22 that, while he couldn't say that General MATSUI could
23 be here Monday morning, it was possible that he might.
24 In view of the lateness of the hour, may I suggest an
25 adjournment until Monday morning?

1 THE PRESIDENT: We will adjourn until half
2 past nine Monday morning.

3 (Whereupon, at 15.7, an adjournment
4 was taken until Monday, 10 November 1947, at
5 0930.)

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10 NOVEMBER 1947

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1759	3415		Affidavit of SOGO, Shinji		32808
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1922	3417		Certificate of non-availability, dated 24 July 1947 of certain documents		32814
2524	3418		Certificate of non-availability, dated 5 September 1947 of certain documents		32815

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(cont'd)

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2641	3419		Certificate dated 11 September 1947 received from the Central Intelligence Group, Washington with two letters attached		32816
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<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc</u>
2048-A to 2048-P incl.	3422-A to 3422-P incl.		Series of 16 telegrams between the War Minister or his Vice- Minister and the Com- mander of the Kwantung Army or his Chief of Staff		32832
2096	3423		Letter from the Chief of General Staff to the War Minister dated 22 September 1931 (Excerpt from Exhibit No. 3038-G)		32834
	3424		September and October issue, 1931 of "The Japan Chronicle"	32837	
1938	3425		Excerpt from the Man- churian-Secret-Great- Diary (MAN-MITSU-DAI- NIKKI) Vol. 1, 1931 - Instruction given to Major-General HASHIMOTO, Toranosuke by the War Minister on 24 September 1931		3284
			<u>NOON RECESS</u>		3284
	3426		Volume entitled "Collection of Documents relating to the League of Nations, Vol. III"	32851	

10 NOVEMBER 1947

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Dcf.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
.	3427		Volume entitled "Observations of the Japanese Government on the Report of the Commission of Inquiry"	32851	
1937	3428		Telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army dated 1 October 1931 (Excerpt from Exhibit No. 3038-G)		32860
1965	3429		Telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army dated 11 November 1931 (Excerpt from Exhibit No. 3038-G)		32861
2047	3430		Affidavit of KATAKURA, Tadashi		32868
1760	3431		Affidavit of KODAMA, Tomeo		32874
2853	3432		Certificate of Illness of Witness SHIDEHARA, Kijuro		32881
1784	3433		Affidavit of Patrick J. Hurley, Secretary of War for the United States of America in 1931		32885
2588	3434		Affidavit of KAWABE, Torashiro		32892

1 Monday, 10 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, INTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: First, I will ask the
4 Clerk of the Court to read paragraph 3 of General
5 Orders No. 18, General Headquarters, Supreme
6 Commander for the Allied Powers.

7 CLERK OF THE COURT: (Reading):

8 "GENERAL HEADQUARTERS

9 "SUPREME COMMANDER FOR THE ALLIED POWERS

10 "APO 500

11 "7 November 1947

12 "GENERAL ORDERS No. 18

13 "APPOINTMENT OF ACTING PRESIDENT OF THE
14 INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

15 "Paragraph 3

16 "Under the provisions of Section I, Charter
17 of the International Military Tribunal for the Far
18 East, published in General Orders 20, General Head-
19 quarters, Supreme Commander for the Allied Powers,
20 26 April 1946, Major General Myron C. Cramer, United
21 States Army, is appointed Acting President of the
22 International Military Tribunal for the Far East
23 during the absence of the President, the Honorable
24 Sir William Flood Webb (Commonwealth of Australia).
25

"AG 334 (7 November 47) SGS

"BY COMMAND OF GENERAL MacARTHUR

1 "PAUL J. LUELLER, Major General, General
2 Staff Corps, Chief of Staff

3 "OFFICIAL:

4 "(S) Clarence E. Sheen

5 "For: R.M. LEVY, Colonel AGD, Adjutant
6 General."

7
8 ACTING PRESIDENT: All the accused are
9 present except MATSUI who is represented by counsel.
10 We have a certificate from the prison surgeon at
11 Sugamo, certifying that he is ill and unable to
12 attend the trial today. This certificate will be
13 recorded and filed.

14 MR. MATTICE: If the Tribunal please, we
15 have concluded the individual defense of the accused
16 MATSUI, with the exception of his testimony, reserving
17 the right to give his testimony when he is able to
18 attend.

19 ACTING PRESIDENT: Mr. Blakeney.

20 MR. BLAKENEY: If the Tribunal please, the
21 defense now responds to the motion of the prosecution,
22 argued on 6 November, that the Tribunal reconsider and
23 reverse its ruling of 17 June ordering the production
24 by the prosecution of certain witnesses for cross-
25 examination, failing which their testimony was to be

1 disregarded. The order of 17 June was one entered
2 after an argument extending to forty pages of the
3 record and full and careful consideration by the
4 Tribunal. That the order in question was no hasty
5 or ill-considered one is apparent from the fact that
6 the motion upon which it was based had been under
7 consideration by the Tribunal for eight days after
8 the full argument, and over eight months from the
9 time that it was first moved. Yet despite the
10 Tribunal's repeated admonitions that a matter once
11 determined will not be reconsidered, the prosecutor
12 has now ventured to move the reopening of as
13 exhaustively-argued and as carefully-considered a
14 ruling as has ever been entered in the course of this
15 trial. He alleged, as of course he must to justify
16 the effrontery of this proceeding, that "the situation
17 is now changed", and proceeds to "call to the Tribunal's
18 attention three points which were not considered at
19 that time" -- not considered, that is, by the
20 prosecution, who overlooked presenting them then. The
21 question has already been argued ad nauseum, and I
22 shall not stop to review its history, but shall go
23 directly to examination of this changed situation
24 and these three points.
25

The first of these "changed conditions" is

1 that, since, as it is alleged, the defense has,
2 subsequently to the introduction of these affidavits
3 of absent witnesses by the prosecution, itself
4 tendered the affidavit of a witness, Woodhead, who
5 was not made available for cross-examination, "a
6 contrary rule has now been established by the Tribunal."
7 This argument is so casuistic that it is impossible
8 to believe it made in good faith. In the first place,
9 the record cited by the prosecutor in this branch
10 of his argument -- page 28,068 -- not only does
11 not support but disproves his statement that the
12 same objection was raised in that case by the
13 prosecution. The defense position from beginning to
14 end of this matter has been that of requesting the
15 Tribunal to order production of the absent witness,
16 or disregard his testimony. The prosecution neither
17 at the time of the introduction of Woodhead's affidavit
18 nor at any other time made any sort of demand for his
19 production. The complete argument made at that time
20 by this same prosecutor was: "The second objection is
21 that the witness is not available for cross-examination
22 even if it were permissible to introduce this affidavit."
23 The prosecutor knows the meaning of words; he knows
24 the difference between a demand for production and
25 an objection because of non-production. Had he wanted

1 the witness produced, he would have demanded his
2 attendance; had he felt his point to have validity,
3 he would have argued it, and pressed it, and the
4 Tribunal would have told him, as it did tell him
5 on another such occasion when the attendance of the
6 witness was demanded, that the application would be
7 considered as was that of the defense. The prosecutor
8 says that if this question had arisen after that of
9 Woodhead, "the Tribunal would have applied the same
10 rule and would have admitted the Russian affidavits
11 in the same manner that they admitted the Woodhead
12 affidavit." Yes. This is precisely what the Tribunal
13 did: It admitted the Russian affidavits, every one
14 of them, in the same manner that it did the Woodhead
15 affidavit -- that is, on the condition that if the
16 attendance of the affiant was requested, and the
17 Tribunal considered the request justified, his
18 attendance would be ordered. But the prosecutor
19 made no such request as the defense made. If,
20 however, the fact were as he states it to be, there
21 would still be no smallest part of an analogy between
22 that case and this. He says, "no proper and material
23 distinction in principle can be made" between the
24 two. The prosecutor recognizes no distinction in
25 principle between Woodhead, a free man, and these

1 prisoners of war. But, waiving that, does he
2 seriously contend that we, the defense, are to be
3 told that unless we produce witnesses from overseas
4 our failure to do so shall be construed as assent
5 to his not producing his witnesses? Can he have
6 forgot for the moment that he is a government --
7 rather, a coalition of eleven governments, of the
8 great nations of the earth? The prosecution has but
9 to command, and their witnesses appear. The prosecution
10 can bring Woodhead himself, if they desire, without
11 asking any leave of court or defense. But what shall
12 the defense do? Shall I foot the bill for the witness'
13 passage? And shall I compel the British Government
14 to grant the witness his passport and vise, and the
15 Supreme Commander to admit him to Japan? How can
16 the prosecutor stand before this Tribunal and say
17 that defense and prosecution are on an equal footing
18 in regard to production of witnesses, and not blush
19 with shame to say it?

20
21 The second "changed condition" is that "it
22 has been demonstrated that the prosecution has done all
23 that it can to present these four deponents for cross-
24 examination". The prosecution has made a variety of
25 specious excuses; it has applied for extensions of
time within which to bring the witnesses; it has done

1 everything possible, perhaps short of presenting
2 the witnesses. But where is the demonstration that
3 the prosecution "has done all that it can"? They
4 brought six; why not another three or six? The
5 reasons alleged for inability to call them --
6 inability of the government of which they are prisoners
7 of war to produce them on its own behalf in this
8 trial -- are of the most unconvincing possible
9 character. "Security" is frequently mentioned. How
10 can the security of a state be menaced by anything
11 which might be said by a former enemy soldier,
12 prisoner of war in its control? If the witnesses
13 appeared for cross-examination, it would be cross-
14 examination on the matter in these affidavits, which
15 considerations of security did not prevent the
16 prosecution from publishing to the Tribunal; what
17 claim of "security", then, could be advanced in
18 connection with their testimony under cross-examination?
19 The prosecutor, conceding that this is the most
20 important of war-crimes trials, yet contends that
21 trials going on in the U S S R cannot be conducted
22 without the witnesses. Why cannot their affidavits
23 be used there, the witnesses testifying in absentia
24 there while they testify corporeally here? As the
25 prosecutor admits, the cases in which it is alleged

1 that they are to testify "are being investigated at
2 present, or haven't yet been investigated"; what
3 then becomes of his excuse for not having produced
4 the witnesses during the four and a half months since
5 the Tribunal's order to do so? The Soviet authorities
6 have had over two years to ascertain what testimony
7 these witnesses can give. So far as concerns the
8 prosecution's having done all that it can to produce
9 the witnesses, I submit that the record of this
10 Tribunal is utterly barren of any suggestion, not
11 only of diligence, but even of the slightest pretence
12 of an attempt to do so. It shows, if it shows
13 anything, only that the right hand of the U S S R
14 knows very well what the left hand proposes doing, and
15 vetoes it.

16
17 Third "changed condition". That a "vituper-
18 ative attack" was made against "one of the participating
19 nations, the substance of which was that duress had
20 been used in obtaining the affidavits." The employ-
21 ment by prosecutors of such terms as "vituperative"
22 to characterize statements of unpalatable facts has
23 become fairly common, and can be passed over. As
24 for the charge of duress, no such charge was made
25 by me -- for I am the counsel referred to. What I
did was to speak of the fact that these witnesses

1 were prisoners of war. During the late war I had
2 occasion to inspect many thousands of prisoners of
3 war held by my country and its allies, and I can
4 affirm that it was not uncommon to find them kept
5 under armed guard, or, in a familiar figure of speech,
6 with a gun in the back. Since, however, the prosecutor
7 has seen fit to go beyond the bounds of legal argument,
8 and to discuss as a question of fact whether duress
9 has been proved -- he says that "the cross-examination
10 of the witnesses just produced has demonstrated the
11 emptiness of such a charge" -- I shall take the
12 opportunity of meeting him on the facts. The testimony
13 of one of the witnesses just produced was that he
14 has been held as a prisoner since 27 September 1947;
15 that he had never been charged with any crime or offence
16 against the U S S R; that he was thrown into prison
17 without being told of any reason therefor, and was
18 held there for something over four months; that he
19 learned that he was to be imprisoned from a lieutenant-
20 general of the NKVD, or OGPU; and that during the
21 time of his imprisonment his affidavit for use in this
22 trial was prepared. These facts are more significant
23 than the witness' answer to the question "Did you
24 testify without any duress?" In the case of all
25 these witnesses, in general, we can wonder whether

1 duress may not be inferred from the fact that with
2 the lapse of near twenty-seven months since the
3 Japanese surrender they yet remain prisoners of war --
4 under armed guard.
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1 The last "changed condition" is that whereas
2 much of the evidence given by these absent affiants
3 relates to the Kantokuen, the defense has now had a
4 fair opportunity to cross-examine -- to cross-examine
5 other witnesses, that is -- and that "further cross-
6 examination on that subject would be needlessly
7 repetitive." If the cross-examination would be need-
8 lessly repetitive, so must be the testimony in chief.
9 Why, then, is the admission of the evidence insisted
10 upon? Or is this but the prosecutor's assurance that
11 the cross-examination will fail and that his evidence
12 should be accepted at face value? As the President
13 lately reminded us, "There are no short cuts to
14 proper judicial determination," and, "Cross-examination
15 still remains the principal means of testing credit."
16 It is a means which, I make so bold as to submit, cannot
17 be replaced by a prosecutor's assertion that it is un-
18 necessary; nor, we have the vanity to believe, has it
19 to date failed. I will, indeed, gladly agree with
20 the prosecution that cross-examination of these re-
21 maining witnesses would be productive of the same
22 result as in the past. However, continues the
23 prosecutor, so far as these affidavits deal with
24 other subjects than the Kantokuen, "The evidence is
25 to a great extent cumulative," which is a reason for

1 not cross-examining the affiants. This can have only
2 two meanings. One, that the evidence is worthless,
3 in which event it should not be imposed upon the
4 Tribunal. The other, that the prosecution's view of
5 the case has been accepted by the Tribunal; that the
6 decision has been made, wherefore no further evidence
7 is required. This is the only meaning of the term
8 "cumulative" that I understand, and this was the ex-
9 planation of it given by the President of the Tri-
10 bunal to the Soviet prosecutor the last time that
11 this suggestion was made: "If we tell the defense
12 we have heard enough, we are deciding their way."

13 We come now to the three points not prev-
14 iously argued, which are alleged to dispose of the
15 defense request for leave to reopen the general
16 Soviet phase. But before dealing with them, let me
17 mention again, in order to prevent any muddling of
18 the record on that point, that the closing of the
19 defense's Soviet phase was conditional, subject to
20 later introduction of evidence relating to various
21 matters reserved. These matters are not, I take it,
22 now in question, but it is a matter of reopening the
23 phase for the introduction of evidence deemed neces-
24 sary as a result of the production of some witnesses
25 for cross-examination and disclosure that others

would not be produced.

1
2 The first of the prosecutor's points "not
3 hitherto argued" was, like the rest, available and
4 known to the prosecution at the time of the original
5 argument of this question. This is the fantastic
6 contention that, by reading into evidence, prior to
7 the rendition of decision on their eventual dis-
8 position, certain parts of the affidavits now under
9 consideration, the defense "adopted" them, whatever
10 that may be, and "abandoned or waived" its objection
11 to their reception. Let us examine this mumbo-jumbo
12 carefully. The affidavits were originally received
13 in evidence, subject to later decision of the defense
14 motion to strike. They were then in evidence; the
15 whole of them, not just the parts read into the
16 record. The defense then, in its Soviet phase, read
17 into the record certain unread parts thereof, this
18 being what the prosecutor refers to as "introducing
19 into evidence," though the distinction is one of
20 which he must be aware. But before ever any excerpt
21 from such an affidavit was read by the defense, this
22 statement of intention was made: "Until such time
23 as the Tribunal shall have given its ruling on the
24 request for the production of absent witnesses of
25 the prosecution's Soviet phase, I shall use their

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18 into evidence," though the distinction is one of
19 which he must be aware. But before ever any excerpt
20 from such an affidavit was read by the defense, this
21 statement of intention was made: "Until such time
22 as the Tribunal shall have given its ruling on the
23 request for the production of absent witnesses of
24 the prosecution's Soviet phase, I shall use their
25

1 affidavits so far as they are of service to the
2 defense. If, finally, it shall be determined to
3 reject them as evidence, of course the parts so used
4 by the defense will as well be stricken." Record
5 page 23,182. This statement, it is now alleged, was
6 an endeavor "to place the Tribunal on terms," terms
7 which, it is pointed out, were not acceded to by the
8 Tribunal. There was no objection by the prosecution
9 at the time, nor did the Tribunal indicate that it
10 considered that it was being "placed on terms," which
11 of course it was not. What choice could the defense
12 have made except to make what use it could of evidence,
13 the ultimate disposition of which was as yet undeterm-
14 ined, but was under consideration by the Tribunal?
15 Such a proceeding appears logical and expeditious in
16 dispensing with some amount of other evidence,
17 certainly is not unprecedented, and must in any view
18 be compulsory upon conscientious counsel; whereas
19 the most that can be said of the objection to it, now
20 raised, is that it is technical in the extreme. By
21 the way, this argument is applied by its author to
22 what he refers to as "three of the four affidavits
23 with which we are now concerned." If it did apply
24 to the three, and not to the one, the defense request
25 for leave to reopen would not be affected by it.

1 Parenthetically, it should be noted that the affi-
2 davits in question are not four; they are five, even
3 if we concede that the case of the sixth affiant,
4 KITA, which I shall come to presently, is exceptional.
5 For what reason I do not undertake to surmise, the
6 prosecutor ignores wholly the case of one of his
7 witnesses, AKIKUSA Shun, whose status is identical
8 with that of others whom he treats of.

9 "The defense," we are told, "had no right to
10 assume that any affidavit would be excluded by reason
11 of non-production of the deponent," meaning "affiant,"
12 "and if the defense had testimony to meet these
13 affidavits," it should have been presented before.
14 How could such a compulsion be conceived to exist?
15 The defense thought, when it moved the production of
16 these witnesses or the rejection of their testimony,
17 that every canon of justice or fairness compelled
18 that procedure; it thinks so yet. That the defense
19 was correct in that belief is evident from the
20 decision of the Tribunal ordering the motion granted.
21 I say that we felt so and were proved correct. But,
22 correct or not, why should the defense have inundated
23 the Tribunal with evidence in answer to these affi-
24 davits, evidence which might be proved wholly un-
25 necessary by the Tribunal's decision whether to

1 accept or reject? The prosecutor's reasoning comes
2 to this: That the evidence was once accepted; that
3 notwithstanding the defense urged, and the Tribunal
4 later decided, that justice required production of
5 the witnesses, the defense should have anticipated
6 that long afterward the Tribunal would, merely be-
7 cause a prosecutor demanded it, rescind its order
8 which had already been fully executed and should
9 have made its preparations accordingly.

10 And finally, on this point, the prosecutor
11 is aghast at the proposed "innovation" of permitting
12 the defense now to substitute new evidence for that
13 stricken by the Tribunal's order. Where is the in-
14 novation? The Soviet prosecution has within the
15 week before the prosecutor spoke introduced new evi-
16 dence, over a year after the close of its case, in
17 the form of additional affidavits of the very wit-
18 nesses produced for cross-examination, with the
19 result of precisely the retrial of the Soviet phase
20 which the prosecutor denominates unjustified. Yet
21 the prosecutor's suggestion is that the defense should
22 be denied leave to reopen to meet even this evidence,
23 as well as matters arising out of the cross-
24 examination of such witnesses as have been produced.

25 The second point not "hitherto argued"

1 concerns the Charter, which existed in its present
2 form at the time of the original argument of this
3 question on 9 June 1947. The defense have urged
4 times without number that Article 13-A of the Charter
5 contemplated the admission of some type of document
6 offered by us, to have it nevertheless rejected by
7 the Tribunal. The prosecutor's Olympian assurance
8 that these sworn statements of his witnesses have
9 probative value hardly establishes the fact, espe-
10 cially in the light of the Tribunal's decision that
11 in the absence of cross-examination they have none.
12 The Tribunal is not compelled to admit evidence un-
13 less it deems it to have probative value, and it is
14 compelled by a prosecutor's assertion to deem it to
15 have. Would such an affidavit as these, if offered
16 by the defense, be received at all?

17 As for the third point, the procedure at
18 Nuernberg, which trial concluded long before the
19 original argument on this question, does it not
20 suffice to say that the Tribunal has repeatedly
21 announced that it would not consider itself bound
22 by the procedure at Nuernberg and did not care even
23 to hear the procedure there suggested as persuasive?
24 This Tribunal has, after full and careful consider-
25 ation, come to its conclusion in this matter, a

1 conclusion consistent with justice and a fair trial
2 for the accused, and what other judges in other cir-
3 cumstances may have decided is of less than persuasive
4 effect.

5 I must point out one or two more matters in
6 answer to the prosecutor. I wish again to emphasize
7 that the order of the Tribunal of 17 June was that
8 the witnesses be produced within a time limited,
9 failing which their evidence would be disregarded.
10 The time, as extended, expired on 17 October, or
11 twenty days before this motion for reconsideration,
12 and the Tribunal's order was then by its terms
13 executed. It had become effective; there was nothing
14 further to be done. The witnesses had not been
15 produced, and their testimony was to be disregarded.
16 If this present application should prevail, there
17 would never be any certainty concerning the orders
18 of the Tribunal; for if they can be reopened twenty
19 days after becoming final, so they can six weeks or
20 a year. This order, by the way, had once before
21 become final, on 18 August, after which date only was
22 the application for extension of time filed.

23 The prosecutor mentions once or twice that
24 the affidavits of KUSABA and MIYAKE, both now de-
25 ceased, and of NOHARA, now in Germany, were admitted

by the Tribunal. He fails to mention that by the
1 order of 17 June they were ordered received de bene
2 esse. The term "de bene esse" is one very familiar
3 to American lawyers, but I venture to say that none
4 of us understands what it means in this context.
5 The only use known to us is not applicable here.
6 Whatever it means -- perhaps "for whatever it is
7 worth, if anything" would be a reasonable surmise --
8 it clearly imports something different from un-
9 conditional admission into evidence, and if the
10 affidavit of KITA were to be accepted at all, despite
11 the non-compliance with the order of the Tribunal,
12 it would doubtless be on the same terms.

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1 Furthermore, the case of the affiant TOMINAGA
2 is unique. His production was unequivocally ordered
3 by the Tribunal at the time of acceptance of his affi-
4 davit (record page 7,529). The representation at the
5 time was that he was sick and would be produced
6 immediately upon his recovery. As in the case of all
7 the other witnesses from this phase reported as ill,
8 no medical certificate was offered to the Tribunal
9 but only the secondary hearsay evidence of Soviet
10 authorities in Tokyo, with no specification of the
11 nature or gravity of the illness to enable the Tri-
12 bunal to judge of the validity of the excuse. The
13 unreliability of this type of evidence has been demon-
14 strated strikingly when one of the witnesses so re-
15 ported sick has testified before the Tribunal not a
16 fortnight since that he has never been sick since
17 becoming a prisoner of war. TOMINAGA, at all events,
18 was stated by the prosecution at the time his affi-
19 davit was tendered to be a most important witness, one
20 whose production was ardently desired by them. But
21 this was over a year ago, during which intervening
22 time has appeared neither witness nor medical certifi-
23 cate nor other explanation of his non-attendance.
24 Now it is alleged for the first time that it is
25 reasons of security which forbid his production here.

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25 reasons of security which forbid his production here.

1 This long-continued flouting of the Tribunal's order
2 requires, in our submission, the disregarding of
3 TOJINAGA's testimony.

4 Finally, why this reluctance of the prosecut-
5 ing nation to produce these witnesses? What do they
6 fear as the result of their appearance in the wit-
7 ness box? Five now harmless citizens of a defeated
8 nation, stripped of all rank in an army which has
9 ceased to be, prisoners of war who will be returned to
10 the land of their captivity -- what peril to the
11 security of a great state lurks in the suggestion that
12 they appear here? The very repetition of these efforts
13 to escape compliance with the barest demands of a fair
14 trial emphasizes the importance of the Tribunal's seeing
15 them, hearing them, observing their appearance under
16 cross-examination. In no other wise can it be possible
17 to judge the worth, if any, of their testimony.

18 The defense submits that the Tribunal's order
19 of 17 June as already effective should stand.

20 ACTING PRESIDENT: Mr. Tavenner.

21 MR. TAVENNER: If the Tribunal please, I do
22 not desire to re-argue any point covered in my first
23 argument, but permission is respectfully requested to
24 answer an entirely new point raised by defense counsel
25 which needs clarification.

1 The point deals with the whole erroneous con-
2 tention that the order of June 17 was a final decision
3 for rejection of affidavits as to which the deponents
4 were not produced for cross-examination. May I be
5 permitted to make a rebuttal reply to this new point?

6 ACTING PRESIDENT: Go ahead.

7 MR. TAVENNER: Certainly counsel, who at his
8 request was given from Thursday until today to prepare
9 his reply, must know and understand that the order of
10 June 17 was not final.

11 It is divided into two parts. The first part
12 orders the prosecution to produce for cross-examination
13 certain witnesses within a period of two months, or
14 within such longer period as may on cause shown be
15 approved by the Tribunal.

16 The second part is that, alternatively, that
17 is, if the deponents are not produced, the prosecution
18 shall give convincing reasons within the said period
19 as to why they are not able to produce the witnesses.

20 The language of this alternative provision of
21 the order is meaningless unless it means precisely what
22 it says, namely, that the prosecution may be heard on
23 the reasons why it is not able to produce certain wit-
24 nesses, and it is incomprehensible that counsel should
25 seriously contend otherwise.

1 The reasons why certain witnesses could not
2 be produced were explained first in the chambers
3 hearing of August 20, and were restated by Chief of
4 Counsel on October 16, the day before the witnesses
5 were to be produced. Mr. Furness, who, with Mr.
6 Blakeney, has been taking the lead in the defense
7 opposition to this matter, said, on October 16, that
8 he assumed, and I quote, "If the Court is considering
9 changing its order, it will hear arguments from the
10 defense with regard to it," the Tribunal having already
11 announced that it would consider the matter.

12 The position of the prosecution is that the
13 combined action of the prosecution, defense, and the
14 Tribunal told the running of the time element of the
15 order, and therefore the order did not become final.
16 If the explanation as to why the prosecution is not
17 able to produce the five, or I should say, six wit-
18 nesses is considered adequate, then, it is submitted,
19 the affidavit should be considered in evidence, and
20 the order of June 17 will have been fully complied
21 with. If the Tribunal concludes that convincing
22 reasons have not been given for the non-production of
23 the six witnesses, nevertheless, the prosecution respect-
24 fully submits, our Charter provisions and the Nuern-
25 berg rules should be held to govern. The prosecution

1 has not contended for any stronger rule than that
2 adopted at Nuernberg.

3 I desire to state that the name AKIKUSA, Shun
4 was not given me at the time the original argument was
5 prepared, and therefore his name was not included
6 in my first discussion. His name should have been
7 included among the list of affidavits. What has been
8 said applies to him equally as to the others.

9 I think I should add, if the Tribunal please,
10 that to the extent that my able friend deserted a
11 reasoned argument and resorted to a plethora of abuse
12 against prosecution counsel and against one of the
13 participating nations his remarks and the manner in
14 which he made them, although resented, should be
15 passed over and not dignified by further answer.

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14 which he made them, although resented, should be
15 passed over and not dignified by further answer.

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1 MR. BLAKENEY: May I have leave of the Tri-
2 bunal to say a word in answer to this new question
3 raised?

4 ACTING PRESIDENT: I do not think there is any-
5 thing more that need be discussed on that; I think we
6 have gone far enough.

7 The Tribunal will take the matter under con-
8 sideration.

9 Mr. Brooks.

10 MR. BROOKS: Mr. President and Members of the
11 Tribunal: On the order of proof I understand that the
12 prosecution does not desire to cross-examine the wit-
13 nesses at No. 1, 3, 8, 23 and 30 of the order of proof.

14 ACTING PRESIDENT: Just a little slower, will
15 you please?

16 MR. BROOKS: No. 1, 3, 8, 23 and 30 of the
17 order of proof. Also, the names of these witnesses,
18 NAKAMURA, SUGO, TAKEDA, KATAKURA, MITARAI. The defense
19 documents covered are No. 487, 1759, 2739, 2047 and
20 2013. Of course the prosecution does not waive the
21 right to make proper objections to the offering of the
22 affidavits.

23 I also wish to state that since the taking of
24 the affidavit the first witness, NAKAMURA, has died,
25 and I will present a death certificate.

1 For the benefit of the marshal, I wish to state
2 that I will be required to call the witnesses at No. 8 and
3 23 to identify certain documents and answer a few
4 additional questions for the defense.

5 Now, on behalf of MINAMI, Jiro, we will proceed
6 directly with the presentation of evidence, without any
7 opening statement.

8 First of all, we offer into evidence defense
9 document 487, the affidavit of NAKAMURA, Kotaro, to-
10 gether with defense document 2674, his death certificate.
11 General NAKAMURA executed the affidavit in December last,
12 but to our regret died in August this year.

13 ACTING PRESIDENT: Colonel Woolworth.

14 MR. WOOLWORTH: If the Tribunal please, the
15 prosecution objects to the introduction of the first
16 document, No. 487, on the ground that the deponent is not
17 present for cross-examination, and furthermore, that it
18 does not appear that the affidavit was executed in
19 anticipation of death.
20

21 MR. BROOKS: If the Tribunal please, these
22 affidavits that have been taken for a long period of
23 time, since 1946, were taken in anticipation that some-
24 thing of this nature might happen. It is a customary
25 practice, one that I have followed for years, of taking
affidavits of every witness I intend to use, life being

so uncertain.

1 ACTING PRESIDENT: The objection is overruled.
2 The Tribunal will take into consideration the fact that
3 this witness has not been cross-examined.

4 MR. WOOLWORTH: If the Tribunal please, the
5 prosecution objects to paragraph 3 of defense document
6 487 on the ground that it is purely argumentative, and
7 to that part of paragraph 4 on page 5, beginning at the
8 word "Moreover" on the seventh line on page 5, to the
9 end of the affidavit, on the same ground.

10 MR. BROOKS: If the Tribunal please, this
11 affidavit by the Chief of the Personnel Bureau of the
12 War Ministry, working under War Minister MINAMI,
13 describes facts which will be corroborated by the evi-
14 dence to be produced hereafter. In view of the allegation
15 of the prosecution that MINAMI was opposed to the
16 reduction of armament and intended to increase troops
17 in Korea, it is necessary for us to show the financial
18 situation of the army which was dealt with by MINAMI
19 and we submit that General NAKAMURA's affidavit should
20 be admitted as relevant material in these issues, and
21 that this matter in paragraph 3 and the later part is
22 not argumentative, that is, about the statements that
23 have previously been raised in MINAMI's own case earlier,
24 in the general phase.
25

1 The retrenchment policy has been discussed
2 about the movement in the latter part on page 5, the
3 latter part of paragraph 4, and it was a matter with
4 which MINAMI was greatly concerned.

5 As to the address made under paragraph 3, as to
6 the current situation, this states about why certain
7 newspapers criticized the statement and it states some
8 of the reactions from the public in relation thereto,
9 which is relevant and material, taking into considera-
10 tion what the speech was about. Furthermore, it dis-
11 cusses the intrigue among the various political parties
12 and the grasping of one political party at an advantage
13 that it might twist and distort against another member
14 of a different political party, which will be brought
15 out more clearly in future evidence.
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1 ACTING PRESIDENT: By a majority vote the
2 objection is overruled and hereafter the prosecution
3 is requested to put in all its objections at one time
4 and not in parts.

5 Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 487
7 will receive exhibit No. 3413; defense document 2674
8 will receive exhibit No. 3413-A.

9 (Whereupon, the documents above
10 referred to were marked defense exhibits
11 No. 3413 and No. 3413-A, respectively, and
12 received in evidence.)

13 MR. BROOKS: I shall not read the death
14 certificate, exhibit 3413-A, but shall read the
15 affidavit, exhibit 3413, commencing with paragraph
16 2 on page 2:

17 "(2) In the 6th year of Showa I was working
18 under War Minister MINAMI as Chief of the Personnel
19 Bureau of the War Ministry. According to what I
20 learned from my position, the WAKATSUKI Cabinet at that
21 time was taking up a retrenchment policy as the
22 previous HAMAGUCHI Cabinet had done and was trying
23 to carry out administrative readjustment on a large
24 scale to reduce the budget. In the latter part of July,
25 Finance Minister INOUE presented a bill for the

1 revision of the Pension Law, in which he demanded a
2 reduction and amendment to military men's pensions.
3 This problem was carefully deliberated upon at the
4 War Ministry. Reduction of military men's salaries
5 was in the jurisdiction of the Military Affairs
6 Bureau and the Accounts Bureau and was not under my
7 jurisdiction, but I heard that it was reduced on a
8 scale similar to those of civil officials. Since
9 conditions were such, expenses necessary for the
10 renovation of various systems in the army and materials
11 of arms, etc., could not be supplied by government
12 finance. Accordingly, there was no alternative but
13 to curtail the expenses of the army itself and to use
14 sums for only the most urgent items, for example,
15 organizing an air force or mechanized unit by abolish-
16 ing the cavalry. On the other hand, the WAKATSUKI Cab-
17 inet was organized after the close of the Diet session.
18 Therefore, although the reformation of the organiza-
19 tion and the equipment of the army had been planned
20 within the budget of the ex-Cabinet, the plan was
21 suspended, owing to this change of the Cabinet.
22 Japanese army equipment in those days was the same
23 as that in the early stages of the 1st World War.
24 Compared with those of other powers, it was very much
25 out of date and extremely inferior.

1 "(3) The Council of Division Commanders
2 was, as an established custom, convened every year
3 in Tokyo. They discussed on their business at the
4 War Ministry, the Headquarters of the Army General
5 Staff, and Inspectorate General of Military Education.
6 The Council of 1931 took place on the 4th of August
7 for the first time after MINAMI became the War
8 Minister. In his address made in the council, there
9 was a passage: 'As the current situation in Manchuria
10 and Mongolia is, to my regret, growing worse, those
11 who are engaged in military service should make in-
12 creasingly greater efforts in military education and
13 training, and to fulfil their duties.' Some newspapers
14 criticized this statement saying that it inspired
15 militarism or it meant political intervention by the
16 military circles. It must be only natural, however,
17 that the War Minister would demand Commanders of
18 Divisions to understand the oversea situation and to
19 wish to have them try their best in the education and
20 training of the army itself. Moreover, I could not
21 help but think that the reason why his address brought
22 about great reaction from the public was, after all,
23 due to a plot laid by a section of some political
24 party who, taking advantage of the instability of the
25 political situation in those days planned to overthrow

the government by tripping up a member of the Cabinet.

1 "(4) The news of an incident having broken
2 out at Liutiaokou in Mukden on the night of the 18th
3 of September 1931 and that Japanese and Chinese
4 forces began fighting one another, was brought to me
5 at 8 o'clock the following morning at the War Ministry.
6

7 "Now a vital element in combat is the
8 assignment of personnel, especially of officers.
9 Concerning this incident, however, the fact that I,
10 as Chief of the Personnel Bureau of the War Ministry,
11 did not know anything about the personnel beforehand,
12 that there was no preparation, and that the incident
13 was truly unexpected to me makes it quite obvious
14 that there was no previous plan. Moreover, as it was
15 just at a time when the army itself was taking a re-
16 trenchment policy, and that the organization and equip-
17 ment of the army was very imperfect, it was not likely
18 that Japan would take the initiative in bringing
19 about trouble. Subsequently, a gap took place between
20 the Cabinet's policy of 'Nonenlargement and local
21 settlement of the incident' and the movements of the
22 army situated there whose actions were governed by
23 strategy and as a result of which the War Ministry,
24 that is, the War Minister found himself in a very
25 difficult situation. This was because strategic

1 operations were under the control of the Military
2 Command of Chief of the General Staff, and outside
3 the authority of the War Minister.

4 "December 22, 1946.

5 "Deponent, NAKAMURA, Kotaro."

6 The defense offers next in evidence defense
7 document 286, a certificate issued by the First
8 Demobilization Bureau concerning the reduction of
9 officers' salary by virtue of Imperial Ordinance
10 No. 103 of May 27, 1931. As mentioned in paragraph 2
11 of NAKAMURA's affidavit just now read, this is
12 further evidence that War Minister MINAMI carried out
13 most faithfully a retrenchment policy as War Minister.

14 This is the part mentioned on page 2, the
15 bill for revision of the pension law, page 2 of
16 exhibit 3413.

17 I did not intend to read this exhibit,
18 if your Honor please. It is referred to in the
19 affidavit.

20
21 MR. WOOLWORTH: Prosecution objects to the
22 introduction of defense document 286 on the ground it
23 is irrelevant.

24 ACTING PRESIDENT: Overruled. Admitted on
25 the usual terms.

CLERK OF THE COURT: Defense document 286

1 will receive exhibit No. 3414.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3414 and received in evidence.)

5 MR. BROOKS: I shall not read the exhibit
6 but only point out the fact that the reduction ranged
7 from 5.8 percent for first lieutenants to 12 percent
8 for generals.

9 As to MINAMI's policy of financial retrench-
10 ment and armament reduction, I refer the Tribunal to
11 the testimony of MINAMI, court record pages 19,776 and
12 19,777, KOISO's testimony at court record page 32,206,
13 and further evidence thereon will be given by KODAMA,
14 whom we have called as a witness.

15 At this time the defense offers defense
16 document 1759 in evidence, the affidavit of the
17 witness SOGO, Shinji.

18 ACTING PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 1759
20 will receive exhibit No. 3415.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 3415 and received in evidence.)

24 MR. BROOKS: I shall read the exhibit
25 commencing with the last paragraph on page 1:

1 "I worked as a director in the South
2 Manchuria Railway Company for full four years from
3 July 1930 to July 1934. About May in 1931,
4 Mr. UCHIDA, Yasuya assumed the presidency of the
5 company succeeding Mr. SENGOKU, Mitsugu who had
6 retired from office on account of his illness. It
7 was the custom then that, when a presidential change
8 was made, the incoming President would invite separ-
9 ately every Minister and his staff, and, in return,
10 every Minister would invite the managing staff of the
11 company. The Asahi Newspaper report on July 1, 1931,
12 to the effect that War Minister MINAMI invited to his
13 official residence President UCHIDA and all the direc-
14 tors of the S.M.R. Company was nothing more than this
15 customary return invitation. These conventional
16 parties meant nothing but formalities."

17 This newspaper report referred to in the
18 last paragraph of the affidavit is exhibit 2202-A,
19 which was corrected at page 31,705 of the record. The
20 exhibit, 2202-A, appears at record page 15,753. I
21 also submit that this matter is also covered by
22 KOISO's testimony at court record pages 32,215-32,216.

23 Defense offers in evidence defense document
24 1966. It is an excerpt from exhibit 3038-A, Volume I
25 of the Volumes for 1931 of the Secret Great Diary of

1 the Japanese War Ministry, being one of the originals
2 recovered from Washington that has already been marked
3 for identification.

4 This excerpt is a report dated August 19,
5 1931, from the Commander of the Tokyo Military Police
6 to the War Minister referring to a lecture given by
7 the Commander to his subordinates. This lecture shows
8 the fact that MINAMI was sincerely resolved to suppress
9 any improper activities of young officers.

10 ACTING PRESIDENT: Admitted on the usual
11 terms.

12 CLERK OF THE COURT: Defense document 1966
13 will receive exhibit No. 3416.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 3416 and received in evidence.)

17 MR. BROOKS: I shall read exhibit 3416:

18 "Excerpt from the Secret Great Diary
19 (Mitsu-Dai-Nikki), Volume I, 1931. War Ministry.

20 "Ken-Hi-Sho No. 64.

21 "To Mr. Jiro MINAMI, War Minister

22 "August 19, 1931.

23 "Report re Address of Instruction

24 "I beg to report that an address of instruc-
25 tion, as per attached, was given by me on the policy

1 of guiding young officers in respect of their activities
2 vis-a-vis the present situation.

3 "Toyozo TOYAMA (seal), Commander of
4 Gendarmerie.

5 "(Secret) Instruction re Policy of Guiding
6 Young Officers in respect of their activities
7 vis-a-vis the Present Situation.

8 "As you officers are well aware, meetings
9 and such like of young officers with the object of
10 study and discussion of the Manchurian-Mongolian
11 question and other problems of the present situation
12 tend to overstep the scope of study and turn into
13 concrete activities. Such activities are, however,
14 apt to be exploited politically by outsiders, and
15 it is to be feared that this might place the army in
16 an awkward position. Furthermore, it is a breach of
17 military discipline to make any proposition by forming
18 horizontal combinations, contrary to the military
19 system which provides authoritatively the relation
20 for grades of command and subordination. It will also
21 be a serious matter, should this tendency infect NCO's
22 and men, undermining the foundation of the military
23 constitution and inviting a thousand years' misfortune.

24 "It seems to me that the reason, why the
25 said tendency absorbs the attention of young officers,

1 lies in the mistaken supposition that their
2 activities are lead by the higher authorities of the
3 army. Not only, however, is that not a fact, but the
4 War Minister is firmly resolved to prohibit all these
5 activities within the army. You must, therefore,
6 cooperate fully with your superiors in the guidance
7 of young officers so as not to have their futures
8 spoilt. You must further endeavor to stave off any
9 ill effects upon military discipline and prevent out-
10 siders from political exploitation (of the army).

11 "Dated August 17, 1931.

12 "'Toyazo TOYAMA (seal), Commander of
13 Gendarmerie.'"

14 Language section, at this time I go to No. 6
15 on my order of proof.

16 ACTING PRESIDENT: We will recess for fifteen
17 minutes.

18 (Whereupon, at 1045, a recess was
19 taken until 1100, after which the proceedings
20 were resumed as follows:)
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MARSHAL OF THE COURT: The International
1 Military Tribunal for the Far East is now resumed.

2 ACTING PRESIDENT: Captain Kraft.

3 LANGUAGE ARBITER (Captain Kraft): If the
4 Tribunal please, we submit the following language
5 correction: Reference exhibit 3409, page 7, second
6 line from bottom and record page 32,748, line 7: Delete
7 "in Nanking", substitute "at the front" and insert
8 "victorious" between "a" and "New".

9 ACTING PRESIDENT: Captain Brooks.

10 MR. PROOFS: The defense at this time wishes to
11 make a short explanation concerning telegraphic corres-
12 pondence between the central authorities and the Kwan-
13 tung Army in 1931, to which many references have been
14 made in the course of this trial, but evidence as to the
15 contents thereof has been disallowed pending the search
16 for the original documents or the best evidence thereof
17 obtainable. After exhausting every possible means to
18 locate and obtain such original documents on both sides
19 of the Pacific, the situation to date is as follows:

21 Documents which would have been filed and
22 found at the Japanese General Staff were all burned
23 in August, 1945, as testified at court record page
24 27,047 by MIYAMA, Yozo, Chief of Archives Section of
25 the First Demobilization Bureau, and are, therefore,

not available.

1 Documents which would have been filed and found
2 at the Japanese War Ministry were either burned in
3 August, 1945, or delivered to the Occupation Army
4 in January, 1946, as testified by the same witness
5 (court record pages 27,045 to 27,046).
6

7 Documents thus handed over to the Occupation
8 Army, should be, to the best of our knowledge and belief,
9 located either at the Central Intelligence Group,
10 Washington (which took over documents formerly sent to
11 the Washington Document Center) or at G-2 of the General
12 Headquarters, Tokyo, held in the ATIS document section,
13 or at the Document Section of the International Prosecu-
14 tion Section, Tokyo.

15 We now present into evidence defense document
16 No. 1922, a certificate under date of July 24, 1947,
17 received from International Prosecution Document Division.

18 ACTING PRESIDENT: How about defense document
19 57?

20 MR. PROOKS: We omitted that, your Honor. That
21 was exhibit 57 by error. That is referred to later
22 under 21.

23 ACTING PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 1922 will
25 receive exhibit No. 3417.

1 (Whereupon, the document above referred
2 was marked defense exhibit No. 3417 and received
3 in evidence.)

4 MR. BROOKS: I shall read the exhibit, commenc-
5 ing with the word "subject", exhibit 3417:

6 "Subject: Certificate of Non-availability.

7 "In reply to the 'Order for the Production of
8 Certain Documents necessary to the Defense of the accused,
9 MINAMI, under the Charter' Court paper number 1040,
10 dated 24 June 1947, I certify that none of the said
11 documents are presently available in the Document
12 Division of the International Prosecution Section, Tokyo.

13 "YALE MAXON, Chief, Document Division, IPS."

14 The defense offers next in evidence defense
15 document No. 2524, a certificate under date of September
16 5, 1947, received from G-2, General Headquarters (AFIS
17 Document Section).

18 ACTING PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 2524 will
20 receive exhibit No. 3418.

21 (Whereupon, the document above referred
22 to was marked defense exhibit 3418 and received
23 in evidence.)

24 MR. BROOKS: I shall read exhibit 2418, commenc-
25 ing from the word "subject":

"Subject: Certificate of Non-Availability

1 "To: International Military Tribunal for the
2 Far East.

3 "1. Reference: Court Order No. 1040, Inter-
4 national Military Tribunal for the Far East, Sitting in
5 Tokyo, Japan.

6 "2. This is to certify that none of the docu-
7 ments listed in reference Court Order are available in
8 G-2 FLC. A thorough search has been made covering all
9 potential sources.

10 "For the Assistant Chief of Staff, G-2:

11 "E. H. F. Svensson, Colonel, GSC, Director,
12 WDI Division."

13
14 The defense offers also in evidence defense
15 document No. 2641, a certificate under date of September
16 11, 1947, received from Central Intelligence Group,
17 Washington, together with two letters attached thereto.

18 ACTING PRESIDENT: Admitted on the usual terms.

19 CLERK OF THE COURT: Defense document 2641 will
20 receive exhibit No. 3419.

21 (Whereupon, the document above referred
22 to was marked defense exhibit No. 3419 and received
23 in evidence.)

24 MR. BROOKS: I read the exhibit from page 3
25 to the end:

"1st Indorsement.

"11 September 1947.

"Office of Collection and Dissemination, CIG.

"To: Civil Affairs Division, WDSS, War Department, Washington 25, D.C.

"1 Search has been completed; and all available documents requested under Tribunal's Order Paper No. 963 have been transmitted to Civil Affairs Division.

"a. The following documents were transmitted on 26 June 1947:

"The Secret Great Diary (Mitsu Dai Nikki)', 1931. Volume 1.

"The Secret Great Diary (Mitsu Dai Nikki)', 1931, Volume 6.

"File of Permanent Records, non-classified', 1931. 1 Volume.

"File of unclassified correspondence and records dealing with Manchurian affairs', 1931, 2 volumes. Volumes 1 and 3.

"File of Classified correspondence and records dealing with Manchurian Affairs', 1931. 1 Volume.

"The following documents were transmitted on 28 July 1947:

"The Secret Great Diary', 1931. Volumes 2, 3, and 5.

1 "The following documents requested under
2 Tribunal's Order paper No. 964 were transmitted on
3 26 June 1947.

4 "File of miscellaneous correspondence and
5 records of War Ministry', 1940-1942, 1 bundle.

6 "3. The documents listed above comprise all of
7 the documents this agency can furnish in response to the
8 cited Papers."

9 The volumes just referred to in this certificate
10 and amounting to a total of ten volumes, have been
11 already introduced to the Tribunal for identification
12 and marked as exhibits 3038a to 3038J. Unfortunately,
13 these volumes so recovered out of the so-called "Great
14 Diary" series of volumes do not contain the telegrams
15 required by the Tribunal's order, since the volumes
16 for certain months relative to MINAMI's time in office
17 as War Minister in 1931 have not been sent and some of
18 those sent are of a different series of volumes. At
19 least sixteen volumes, if not more, are short of the
20 number requested under the Tribunal's order.

21 In spite of this disadvantage, however, the
22 defense has found several secondary proofs in these
23 documents marked exhibit 3038a to 3038J which will
24 corroborate our contention with regard to the contents
25 of the original telegraphic correspondence in question.

1 We also have other secondary evidence thereof.

2 Now, according to Article 13, c (5) of the
3 Charter, "a copy of a document or other secondary
4 evidence of its contents may be admitted, if the original
5 is not immediately available". Under the circumstances
6 above mentioned, we desire to present secondary
7 evidence by documents and witnesses in order to prove
8 the contents of certain original telegrams relevant to
9 MIHALLI's case.

10 The defense will call TAKIDA, Hisashi, a
11 former lieutenant general, as the first witness for
12 the identification of certain telegraphic copies of
13 the aforesaid original telegrams.

14 MARSHALL OF THE COURT: Mr. President, the
15 witness TAKEDA is in court. He has previously testi-
16 fied before this Tribunal.

17 ACTING PRESIDENT: You are reminded that you
18 are still under your former oath.

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1 H I S A S H I T A K E D A, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q State your name and address, please.

8 A My name is TAKEDA, Hisashi. My address,
9 Ina-machi, Kuni-ina-gun, Nagano Prefecture.

10 MR. BROOKS: I request that defense document
11 2739 be shown to the witness.

12 (Whereupon, a document was handed to
13 the witness.)

14 Q Is this your affidavit?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. BROOKS: Defense document 2739 is offered
19 in evidence, and I offer 2774 of note No. 10 here also.

20 ACTING PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 2739 will
22 receive exhibit No. 3420. Defense document 2774 will
23 receive exhibit No. 3420A.

24 (Whereupon, defense document No. 2739
25 was marked defense exhibit No. 3420 and received

1 in evidence; defense document No. 2774 being
2 marked defense exhibit No. 3420A and received
3 in evidence.)

4 MR. BROOKS: Language Section, I will go to
5 note No. 10 at this time.

6 THE MONITOR: Thank you, Mr. Brooks.

7 MR. BROOKS: For the purpose of showing that
8 the witness was officially appointed as member of the
9 committee for compilation of a history of the Manchur-
10 ian Incident, I have offered in evidence defense
11 document No. 2774, a certificate issued by the 1st
12 Demobilization Bureau. I shall read the exhibit.

13 ACTING PRESIDENT: I haven't got it yet.
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1 in evidence; defense document No. 2774 being
2 marked defense exhibit No. 3420A and received
3 in evidence.)

4 MR. BROOKS: Language Section, I will go to
5 note No. 10 at this time.

6 THE MONITOR: Thank you, Mr. Brooks.

7 MR. BROOKS: For the purpose of showing that
8 the witness was officially appointed as member of the
9 committee for compilation of a history of the Manchur-
10 ian Incident, I have offered in evidence defense
11 document No. 2774, a certificate issued by the 1st
12 Demobilization Bureau. I shall read the exhibit.

13 ACTING PRESIDENT: I haven't got it yet.
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1 Mr. BROOKS: That is 3420-A, General. It is
2 No. 10 in order.

3 I now read exhibit 3420-A:

4 "Certificate.

5 "TAKEDA, Hisashi.

6 "Date of birth: April 16, 1894.

7 "Place of residence: Ina-machi, Kami-ina-gun,
8 Nagano Prefecture.

9 "It is hereby certified that the above-named
10 was appointed as member of the General Staff and con-
11 currently member of the Committee for Compilation of
12 History of the Manchurian Incident on August 1, 1933,
13 and that he was appointed as instructor of the Army
14 Infantry School and concurrently member of the Research
15 Department of the said school and thereby relieved, on
16 March 1, 1938, from the membership of the Committee
17 for Compilation of History of the Manchurian Incident.

18 Dated October 21, 1947

19 "MIYAMA, Yozo (seal) Chief of the Archives
20 Section, First Demobilization Bureau."
21

22 I shall now read paragraph 2 of exhibit 3420
23 to the end of the paragraph. That is No. 8, Language
24 Section, 2739, exhibit 3420.

25 "From December 1930 to April 1932 I was a
staff officer of the Kwantung Army and well acquainted

1 with telegraphic correspondence of confidential nature
2 between the Kwantung Army and the central army author-
3 ities at that time.

4 "After the outbreak of the Manchurian Incident,
5 a document entitled 'The Manchurian Incident: The
6 Relations of the Despatch and Withdrawal of the Army
7 and Navy Forces (Summary and Particulars of Operations
8 of the Kwantung Army)' was prepared by the Kwantung
9 Army Headquarters on the basis of detailed reports on
10 fightings, which were drafted by me from time to time.
11 The document was distributed in March 1932 for the
12 information of persons interested. I can identify
13 the so-called IPS document #1641 (a copy consisting
14 of 25 pages in Japanese) as an exact reproduction of a
15 part of the said document. I can also identify the so-
16 called defense document 1838 as an excerpt from IPS
17 document 1641 and, consequently, as an excerpt from the
18 said document.

19 "Further, I confirm that the contents of four
20 telegrams quoted in defense document 1838 are the same
21 as the original text of the telegrams received by the
22 Kwantung army headquarters on September 18 and 19,
23 1931 from the Mukden Special Service Organ and the cen-
24 tral army authorities respectively."
25

I go now to note No. 9, Language Section.

1 At this time I request IPS document No. 1641
2 (Japanese version), together with defense document
3 No. 1838, be shown to the witness.

4 (Whereupon, documents were handed to
5 the witness.)

6 MR. BROOKS: Are they the document and the
7 excerpt thereof referred to in paragraph 2 of your
8 affidavit just now read?

9 THE WITNESS: Yes.

10 MR. BROOKS: IPS document No. 1641 (Japanese
11 version) is presented for identification only, and
12 defense document 1838, an excerpt thereof, is offered
13 in evidence.

14 ACTING PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: IPS document 1641 will
17 receive exhibit No. 3421 for identification only. De-
18 fense document 1838 will receive exhibit No. 3421-A.

19 (Whereupon, IPS document No. 1641 was
20 marked defense exhibit No. 3421 for identifica-
21 tion, defense document No. 1838 being marked de-
22 fense exhibit No. 3421-A and received in evidence.)

23 MR. BROOKS: I shall read exhibit 3421-A,
24 defense document 1838, commencing from page 4, where
25

1 is shown a certificate, that is IPS 1641.

2 "Certificate.

3 "12 August 1947.

4 "I, Yale Maxon, Chief of the Document Divi-
5 sion, IPS, hereby certify that the Japanese original
6 of IPS document 1641 is at present unavailable, and
7 that to the best of my knowledge and belief, the at-
8 tached pages of ditto copy processed, but never used
9 by the prosecution, are an exact reproduction thereof."

10 Signed: "Yale Maxon."

11 Then coming back to page 1 I shall read from
12 the place marked P.3.

13 "On September 18, at 11:46 p.m., the Chief of
14 Staff of the Kwantung Army received the following
15 telegram from the Mukden Special Service Organ (Tokumu-
16 Kikan):

17 "'A little after ten o'clock of the 18th re-
18 ports were received that outrageous Chinese troops
19 destroyed the South Manchurian Railway lines west
20 of the big North Barracks north of Mukden, attacking
21 the guards and clashing with the garrison troops. In
22 view of this report, the 2d Infantry Battalion of the
23 Mukden Independent Garrison is now on its way to the
24 place of the clash.'

25 "At 0:28 hours on the 19th, the Chief of Staff

1 received another telegram from the said Mukden Special
2 Service Organ as follows:

3 "The Chinese troops at the North Army Bar-
4 racks blew up the Manchurian Railway, the forces con-
5 cerned number three or four companies of infantry.
6 They have subsequently fled into their barracks. Since
7 11 o'clock, our Hushipai company has been fighting
8 against five or six hundred enemy troops in the North
9 Barracks, and although we have occupied a corner of the
10 place, the enemy is now increasing their machine guns
11 and infantry guns. Our company is now fighting at
12 odds, and First Lieutenant NODA has been severely
13 wounded.'

14 "Page 8.

15 "At 6:00 p.m. of the same day (the 19th),"--
16 that is the 19th of September 1931 --"the following
17 telegram was received from the War Minister:

18 "Referring to the recent clash between
19 Japanese and Chinese troops, the Imperial Government
20 decided to make every effort to avoid extension of the
21 situation, even though the Chinese troops must be
22 blamed for producing its cause by destroying the South
23 Manchurian Railway lines. The Cabinet requests you,
24 therefore, to act in accordance with this principle.'

25 "Page 9.

1 "At the same time the following telegram was
2 received from the Chief of General Staff:

3 "1. I believe that the resolutions and
4 measures taken by the Commander of the Kwantung Army
5 since the night of September 18th are appropriate to
6 the occasion and have enhanced the prestige of the
7 Japanese Army.

8 "2. In view of the Chinese attitude, etc.
9 since the outbreak of the incident, the Cabinet has
10 decided not to go beyond what is necessary in dealing
11 with the incident. The Army should, therefore, conform
12 with this principle in its action."

13 Referring back to note on No. 8, Language
14 Section.

15 As to the circumstances under which these
16 telegrams were sent and received I refer to testimonies
17 of KATAKURA, Tadashi (Court Record pages 18,890;
18 18,897-18,901), TAKEDA, Hisashi (Court Record pages
19 19,325-19,327), KAWABE, Torashiro (Court Record page
20 19,414), and MINAMI (Court Record pages 19,779-19,782)
21 and KOISO (Court Record page 32,217).
22

23 I continue reading exhibit No. 3420, defense
24 document No. 2739, from paragraph 3 on page 2.

25 "3. From August 1933 to April 1937 I was
attached to the General Staff, Tokyo. During this period

TAKEDA

DIRECT

32,828

1 I was ordered to compile a history of the Manchurian
2 Incident. For such purpose I collected necessary
3 materials from all available sources, and in particular
4 made copies of original telegrams, then kept at the War
5 Ministry and the General Staff, by using several as-
6 sistants. All copies and manuscripts thus prepared
7 were held together under my care as chief of compilers.
8 My last manuscript was completed in March 1937 and sub-
9 mitted to the superiors of the General Staff. I heard
10 that it was printed after the transfer of my post to
11 the Infantry School at Chiba in the said month, but
12 have not received a copy. I believe that all the prints
13 and manuscripts of the History of the Manchurian Inci-
14 dent were burned at the General Staff at the time of
15 the surrender.
16

17 "4. In the course of the said work of com-
18 pilation, the descriptive parts of manuscripts were
19 frequently revised on account of various opinions of
20 persons interested, while the text of telegrams re-
21 maind constant. Hence, I used to cut out from an old
22 draft the parts containing the quotations and stuck them
23 onto a new draft." Quotations referred to there are
24 the telegrams. "Even after the transfer of my post
25 from the General Staff I had in my possession a con-
siderable number of such copies of telegrams, but all

1 of them (so I thought until recently) were destroyed
2 or lost during the period of almost continuous removals
3 of my living quarters since 1937 and in the turmoil of
4 war. Upon receiving, however, requests from the de-
5 fense of IMTFE, I made a thorough search of my belong-
6 ings and found copies of 16 telegrams.

7 "5. I identify defense document No. 2048 A to
8 P as the said copies of 16 telegrams, the copies which
9 were prepared by me in the manner aforesaid during the
10 period between August 1933 and March 1937 in the course
11 of my duty as Chief Compiler of the History of the Man-
12 churian Incident. The copies are, therefore, in sun-
13 dry forms, such as mimeographed (see A,B,C,D,F,G,L,
14 H,N,O and P), and typewritten (see E and I), and pencil
15 written (see H,J and K), according to respective drafts
16 or manuscripts from which they were cut out.

17 "Referring to the telegrams in question, I
18 hear that the records of the War Ministry and the Gen-
19 eral Staff are not available. If that is the case,
20 defense documents No. 2048 A-P are, to the best of my
21 knowledge and belief, the only existing authentic
22 copies as regards some of the secret telegraphic cor-
23 respondence in the early stage of the Manchurian Inci-
24 dent.
25

"On this 14th day of October, 1947."

1 I will now go to note 11.

2 At this time I request defense documents 2048
3 A to P be shown to the witness.

4 (Whereupon, documents were handed
5 to the witness.)

6 MR. BROOKS: Are they the copies of telegrams
7 referred to in paragraph 5 of your affidavit, exhibit
8 No. 3420?

9 THE WITNESS: Yes.

10 MR. BROOKS: Defense documents 2048A to P are
11 offered in evidence. I ask that each telegram be
12 marked by separate letters A to P as I will be refer-
13 ring to them individually.

14 ACTING PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: Defense documents 2048A
17 to P will receive exhibit No. 3422. Defense document
18 2048-B will receive exhibit No. 3422-A.

19 MR. BROOKS: Just a second, please. Can you
20 mark those 3422-A to P without marking the certificate?
21 Otherwise we will get confused with the Language Sec-
22 tion because that is the way I intend to refer to them.

23 CLERK OF THE COURT: I don't understand you.

24 MR. BROOKS: Mark the certificate 3422 and
25 then identify each telegram of 2048 A to P as 3422 A

1 to P and that will cover all of them and save confusion.
2 May that be done, your Honor?

3 CLERK OF THE COURT: I still don't understand
4 what you are getting at.

5 LR. BROOKS: If the clerk can mark defense
6 document 2048 A to P, the certificate will be given
7 exhibit No. 3422 and each telegram from A to P be
8 given 3422 A to 3422 P we will save confusion. Mark
9 the certificate with the original number.

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1 CLERK OF THE COURT: Defense document 2043-A
2 will receive exhibit No. 3422-A. Defense document 2048-B
3 will receive exhibit No. 3422-B. Defense document
4 2048-C will receive exhibit No. 3422-C. Defense docu-
5 ment 2048-L will receive exhibit No. 3422-D. Defense
6 document 2048-E will receive exhibit No. 3422-E. Defense
7 document 2048-F will receive exhibit No. 3422-F. De-
8 fense document 2048-G will receive exhibit No. 3422-G.
9 Defense document 2048-H will receive exhibit No. 3422-H.
10 Defense document 2048-I will receive exhibit No. 3422-I.
11 Defense document 2048-J will receive exhibit No. 3422-J.
12 Defense document 2048-K will receive exhibit No. 3422-K.
13 Defense document 2048-L will receive exhibit No. 3422-L.
14 Defense document 2048-M will receive exhibit No. 3422-M.
15 Defense document 2048-N will receive exhibit No. 3422-N.
16 Defense document 2048-O will receive exhibit No. 3422-O.
17 Defense document 2048-P will receive exhibit No. 3422-P.

18 (Whereupon, the documents above
19 referred to were marked defense exhibits
20 No. 3422-A through 3422-P, respectively,
21 and received in evidence.)

22 THE PRESIDENT: What number is the certificate?

23 MR. BROOKS: The certificate should be 3422,
24 your honor. It is the first one on the document.

25 (Whereupon, the certificate above

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1 CLERK OF THE COURT: Defense document 2048-A
2 will receive exhibit No. 3422-A. Defense document 2048-B
3 will receive exhibit No. 3422-B. Defense document
4 2048-C will receive exhibit No. 3422-C. Defense docu-
5 ment 2048-L will receive exhibit No. 3422-D. Defense
6 document 2048-E will receive exhibit No. 3422-E. Defense
7 document 2048-F will receive exhibit No. 3422-F. De-
8 fense document 2048-G will receive exhibit No. 3422-G.
9 Defense document 2048-H will receive exhibit No. 3422-H.
10 Defense document 2048-I will receive exhibit No. 3422-I.
11 Defense document 2048-J will receive exhibit No. 3422-J.
12 Defense document 2048-K will receive exhibit No. 3422-K.
13 Defense document 2048-L will receive exhibit No. 3422-L.
14 Defense document 2048-M will receive exhibit No. 3422-M.
15 Defense document 2048-N will receive exhibit No. 3422-N.
16 Defense document 2048-O will receive exhibit No. 3422-O.
17 Defense document 2048-P will receive exhibit No. 3422-P.

18 (Whereupon, the documents above
19 referred to were marked defense exhibits
20 No. 3422-A through 3422-P, respectively,
21 and received in evidence.)

22 THE PRESIDENT: What number is the certificate?

23 MR. BROOKS: The certificate should be 3422,
24 your honor. It is the first one on the document.

25 (Whereupon, the certificate above

TAKEDA

DIRECT

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1 CLERK OF THE COURT: Defense document 2048-A
2 will receive exhibit No. 3422-A. Defense document 2048-B
3 will receive exhibit No. 3422-B. Defense document
4 2048-C will receive exhibit No. 3422-C. Defense docu-
5 ment 2048-D will receive exhibit No. 3422-D. Defense
6 document 2048-E will receive exhibit No. 3422-E. Defense
7 document 2048-F will receive exhibit No. 3422-F. De-
8 fense document 2048-G will receive exhibit No. 3422-G.
9 Defense document 2048-H will receive exhibit No. 3422-H.
10 Defense document 2048-I will receive exhibit No. 3422-I.
11 Defense document 2048-J will receive exhibit No. 3422-J.
12 Defense document 2048-K will receive exhibit No. 3422-K.
13 Defense document 2048-L will receive exhibit No. 3422-L.
14 Defense document 2048-M will receive exhibit No. 3422-M.
15 Defense document 2048-N will receive exhibit No. 3422-N.
16 Defense document 2048-O will receive exhibit No. 3422-O.
17 Defense document 2048-P will receive exhibit No. 3422-P.

18 (Whereupon, the documents above
19 referred to were marked defense exhibits
20 No. 3422-A through 3422-P, respectively,
21 and received in evidence.)

22 THE PRESIDENT: What number is the certificate?

23 MR. BROOKS: The certificate should be 3422,
24 your honor. It is the first one on the document.

25 (Whereupon, the certificate above

TAKEDA

DIRECT

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1 CLERK OF THE COURT: Defense document 2043-A
2 will receive exhibit No. 3422-A. Defense document 2048-B
3 will receive exhibit No. 3422-B. Defense document
4 2048-C will receive exhibit No. 3422-C. Defense docu-
5 ment 2048-L will receive exhibit No. 3422-D. Defense
6 document 2048-E will receive exhibit No. 3422-E. Defense
7 document 2048-F will receive exhibit No. 3422-F. De-
8 fense document 2048-G will receive exhibit No. 3422-G.
9 Defense document 2048-H will receive exhibit No. 3422-H.
10 Defense document 2048-I will receive exhibit No. 3422-I.
11 Defense document 2048-J will receive exhibit No. 3422-J.
12 Defense document 2048-K will receive exhibit No. 3422-K.
13 Defense document 2048-L will receive exhibit No. 3422-L.
14 Defense document 2048-M will receive exhibit No. 3422-M.
15 Defense document 2048-N will receive exhibit No. 3422-N.
16 Defense document 2048-O will receive exhibit No. 3422-O.
17 Defense document 2048-P will receive exhibit No. 3422-P.

18 (Whereupon, the documents above
19 referred to were marked defense exhibits
20 No. 3422-A through 3422-P, respectively,
21 and received in evidence.)

22 THE PRESIDENT: What number is the certificate?
23

24 MR. BROOKS: The certificate should be 3422,
25 your honor. It is the first one on the document.

 (Whereupon, the certificate above

referred to was marked defense exhibit

1 No. 3422 and received in evidence.)

2 R. BROOKS: I shall read exhibit 3422-A,
3 omitting the certificate,

4 "September 19, 1931. From: Commander of Korean
5 Army. To: Commander of Kwantung Army. Telegram No.:
6 Cho-San-Po 26.

7
8 "As the Chief of Staff compelled me to suspend
9 dispatch of reinforcements in spite of my repeated
10 statements of opinion, the troops, other than air force,
11 are temporarily stopped on the south side of Shingishu,
12 awaiting further developments of the situation."

13 As to the circumstances mentioned in this
14 telegram, I refer to KA'ABE's testimony, court record
15 page 19,413, and KOISO's testimony at court record
16 page 32,217 to 32,218; also that of KODAMA, who will
17 be called later as a witness.

18 Also in this connection, I offer in evidence
19 defense document No. 2096, an excerpt from exhibit
20 3038-G. This is a letter from the Chief of General
21 Staff to the War Minister, dated September 22, 1931,
22 and will show, together with exhibit 3422-A, just now
23 read, that the dispatch of troops abroad was absolutely
24 under the jurisdiction of the Chief of General Staff
25 and that MINAMI was only a recipient of a notice after

the fact was accomplished.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document 2096

3 will receive exhibit No. 3423.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3423 and received in evidence.)

7 MR. BROOKS: I shall read the exhibit.

8 "Excerpt from the Manchurian-Secret-Great-Diary.

9 "1931, Vol. 1. War Ministry.

10 "War Ministry Receipt No.: Riku-Man-Mitsu 1.

11 General Staff Dispatch No.: San-Mitsu 406/1. To War

12 Minister MINAMI, Jiro. Dated September 22, 1931.

13 "Notice re Delivery of Order for Dispatch of
14 Forces to Manchuria.

15 "Notice is hereby given that referring to the
16 dispatch of forces to Manchuria an order as per attached
17 has been delivered to the authorities concerned.

18 "Signed, KANAYA, Hanzo, Chief of General Staff.

19

20 - - - - -
21 "Top Secret. Rin-san-Mei No. 1. Order.

22 "The following units from the subordinate
23 troops of the Commander of Korean Army shall be dis-
24 patched to Manchuria and placed under the command of
25 the Commander of Kwantung Army.

TAKEDA

DIRECT

32,835.

1 "Infantry, 1 brigade (less 1 battalion).
2 Cavalry, 1 company. Field Artillery, 2 companies.
3 Sappers, 1 company. Air Force, 2 companies. Signals,
4 1 unit.

5 "The above-mentioned units shall enter the
6 command of the Commander of Kwantung Army on their
7 crossing of the Yalu River.

8 "The Chief of General Staff shall give
9 instructions with regard to details.

10 "Dated September 22, 1931.

11 "By Imperial Command, Chief of General Staff,
12 KUNAYA, Hanzo.

13 "To Commander of Korean Army, HAYASHI, Senjuro.

14 "To Commander of Kwantung Army, HONJO, Shigeru."

15 As to the circumstances mentioned therein, I
16 refer to MINAMI's testimony, court record page 19,782.

17 I now read exhibit 3422-B.

18 "September 20, 1931. From: Vice-Chief of
19 General Staff. To: Chief of Staff of Kwantung Army.
20 Telegram No. 27.

21 "1. After taking the general situation into
22 consideration, the General Staff agreed to the policy
23 (as per Telegram No. 15), decided upon at the cabinet
24 meeting of the 19th, yesterday, as to how to dispose
25 of the incident hereafter. Please understand, however,

TAKEDA

DIRECT

32,836

1 that you are not restricted in taking necessary actions
2 for accomplishing your proper duties or for self-defense
3 of the army, should the change of circumstances so
4 demand. Although I believe your measures are fully
5 appropriate to meet the situation, it is hoped, all
6 the more, that you will pay particular attention to
7 the prestige of the Imperial Army, by precluding the
8 Chinese troops and citizens from violating our military
9 orders and by making our officers and men observe the
10 most strict discipline, so that no one at home or
11 abroad may find any cause to blame the army.

12 "2. As some officials in the Japanese dip-
13 lomatic and S.M.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20
21 As to the circumstances mentioned in this
22 telegram, I refer to KATAKURA's testimony, court record
23 pages 18,934 to 18,935.

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

TAKEDA

DIRECT

32,836

1 that you are not restricted in taking necessary actions
2 for accomplishing your proper duties or for self-defense
3 of the army, should the change of circumstances so
4 demand. Although I believe your measures are fully
5 appropriate to meet the situation, it is hoped, all
6 the more, that you will pay particular attention to
7 the prestige of the Imperial Army, by precluding the
8 Chinese troops and citizens from violating our military
9 orders and by making our officers and men observe the
10 most strict discipline, so that no one at home or
11 abroad may find any cause to blame the army.

12 "2. As some officials in the Japanese dip-
13 lomatic and S.M.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20
21 As to the circumstances mentioned in this
22 telegram, I refer to KATAKURA's testimony, court record
23 pages 18,934 to 18,935.

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

TAKEDA

DIRECT

32,836

1 that you are not restricted in taking necessary actions
2 for accomplishing your proper duties or for self-defense
3 of the army, should the change of circumstances so
4 demand. Although I believe your measures are fully
5 appropriate to meet the situation, it is hoped, all
6 the more, that you will pay particular attention to
7 the prestige of the Imperial Army, by precluding the
8 Chinese troops and citizens from violating our military
9 orders and by making our officers and men observe the
10 most strict discipline, so that no one at home or
11 abroad may find any cause to blame the army.

12 "12. As some officials in the Japanese dip-
13 lomatic and S.M.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20
21 As to the circumstances mentioned in this
22 telegram, I refer to KATAKURA's testimony, court record
23 pages 18,934 to 18,935.

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

1 "In view of the general situation at home
2 and abroad, it is not proper for the army itself to
3 carry out direct military administration. No time
4 shall be lost in letting Chinese autonomous agencies,
5 such as the General Chamber of Commerce, take charge
6 thereof. The task of the army shall be confined only
7 to negotiation and liaison with such agencies."

8 In order to substantiate that such a telegram
9 was sent to the Kwantung Army, I offer for identifica-
10 tion only the September-October issue of the Japan
11 Chronicle, 1931.

12 CLERK OF THE COURT: The Japan Chronicle of
13 September and October, 1931, will receive exhibit
14 No. 3424 for identification only.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3424 for identification.)

18 MR. BROOKS: And I offer in evidence defense
19 document 2515, an excerpt from said Japan Chronicle
20 of September 23, 1931.

21 MR. WOOLWORTH: If the Tribunal please, the
22 prosecution objects to the introduction of the document.

23 ACTING PRESIDENT: Wait until we get copies,
24 please.

25 MR. WOOLWORTH: The prosecution objects to

1 "In view of the general situation at home
2 and abroad, it is not proper for the army itself to
3 carry out direct military administration. No time
4 shall be lost in letting Chinese autonomous agencies,
5 such as the General Chamber of Commerce, take charge
6 thereof. The task of the army shall be confined only
7 to negotiation and liaison with such agencies."

8 In order to substantiate that such a telegram
9 was sent to the Kwantung Army, I offer for identifica-
10 tion only the September-October issue of the Japan
11 Chronicle, 1931.

12 CLERK OF THE COURT: The Japan Chronicle of
13 September and October, 1931, will receive exhibit
14 No. 3424 for identification only.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3424 for identification.)

18 MR. BROOKS: And I offer in evidence defense
19 document 2515, an excerpt from said Japan Chronicle
20 of September 23, 1931.

21 MR. WOOLWORTH: If the Tribunal please, the
22 prosecution objects to the introduction of the document.

23 ACTING PRESIDENT: Wait until we get copies,
24 please.

25 MR. WOOLWORTH: The prosecution objects to

1 the introduction of defense document No. 2515 as
2 being of no probative value.

3 MR. BROOKS: I offer it, if your Honor please,
4 merely to bear out that the telegram was sent, and
5 that the contents are in line with what is quoted in
6 this article, since it by itself would have very
7 little probative value; but with the other telegram
8 referring to the contents and this article also refer-
9 ring to the contents, the two together do have pro-
10 bative value and substantiate each other as to the
11 contents that were sent at the time. It is very
12 short and it is merely for corroboration and, of course,
13 is secondary evidence.

14 ACTING PRESIDENT: By a majority of the
15 Tribunal, the objection is sustained.

16 MR. BROOKS: As to the circumstances under
17 which the telegram last received was sent, I refer
18 the Court to KATKURA's testimony, court record pages
19 18,924 to 18,925.
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17 which the telegram last received was sent, I refer
18 the Court to KATAKURA's testimony, court record pages
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23
24
25

TAKEDA

DIRECT

32,839

1 I now read exhibit 3422-D.

2 "Sept. 22nd, 1931.

3 "From: Chief of General Staff.

4 "To: Commander of Kwantung Army.

5 "Telegram No. 39.

6 "I approve the actions of your army up
7 to now as timely and upholding the prestige of the
8 country and the army. As to the future actions,
9 however, you must maintain the present formation in
10 line with your original duties, keeping a quiet
11 watch with strict fairness, unless the situation takes
12 an extraordinary sudden turn."

13 As to the circumstances mentioned in this
14 telegram, I refer to KAWABE's testimony, court record
15 pages 19,415-19,416.

16 I next read exhibit 3422-E.

17 "Sept. 23rd, 1931.

18 "From: Chief of Staff of Kwantung Army.

19 "To: Vice-Minister of War and Vice-Chief of
20 General Staff.

21 "Telegram No. Kan-San 435.

22 "The present incident has absolutely no
23 connection with Fushen case reported by Consul-General
24 HAYASHI to the Foreign Minister. Please have no
25 anxiety whatsoever. Details have been told to ANDO.

TAKEDA

DIRECT

32,839

1 I now read exhibit 3422-D.

2 "Sept. 22nd, 1931.

3 "From: Chief of General Staff.

4 "To: Commander of Kwantung Army.

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7 to now as timely and upholding the prestige of the
8 country and the army. As to the future actions,
9 however, you must maintain the present formation in
10 line with your original duties, keeping a quiet
11 watch with strict fairness, unless the situation takes
12 an extraordinary sudden turn."

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14 telegram, I refer to KAWABE's testimony, court record
15 pages 19,415-19,416.

16 I next read exhibit 3422-E.

17 "Sept. 23rd, 1931.

18 "From: Chief of Staff of Kwantung Army.

19 "To: Vice-Minister of War and Vice-Chief of
20 General Staff.

21 "Telegram No. Kan-San 435.

22 "The present incident has absolutely no
23 connection with Fushen case reported by Consul-General
24 HAYASHI to the Foreign Minister. Please have no
25 anxiety whatsoever. Details have been told to ANDO.

1 The above is specially reported."

2 As to the so-called Fushun case mentioned
3 in this telegram, I refer to testimonies of KATAKURA,
4 court record pages 18,932-18,935, and ISHIWAKA, Kanji,
5 court record pages 22,140-22,142; 22,231-22,235.

6 I now read exhibits F, G, and H of 3422.

7 Exhibit 3422-F:

8 "Sept. 23rd, 1931.

9 "From: Chief of General Staff.

10 "To: Commander of Kwantung Army.

11 "Telegram No. 57.

12 "'No dispatch of troops shall be made to
13 Harbin even in the event of sudden change of situa-
14 tion.'"

15 I next read exhibit 3422-G:

16 "Sept. 23rd, 1931.

17 "From: Vice-Minister of War.

18 "To: Chief of Staff of Kwantung Army.

19 "Telegram No. Riku-Man 17.

20 "'The cabinet meeting has decided that no
21 protection on the spot shall be given to Japanese
22 residents in Harbin, and that they shall be evacuated
23 therefrom, should the situation make it inevitable.'"

24 I next read exhibit 3422-H:

25 "Sept. 24th, 1941.

TAKEDA

DIRECT

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1 "From: War Minister.

2 "To: Commander of Kwantung Army.

3 "Telegram No. Riku-Man 20.

4 "'Even if the condition in Chientao becomes
5 serious, the military force shall not be used, but
6 prevention of the aggravation of the situation shall
7 be by relying on police power.'"

8 As to the circumstances mention in these
9 telegrams, I refer to testimonies of KATAKURA, court
10 record pages 18,813-18,924; KAWABE, court record
11 pages 19,416-19,417; and MINAMI, court record pages
12 19,787-19,788.

13 In this connection I offer in evidence
14 defense document 1938, an excerpt from exhibit 3038-G,
15 to show that Major-General HASHIMOTO, Toranosuke (not
16 the accused HASHIMOTO) was sent to Manchuria by
17 MINAMI's instructions of September 24, 1931, for the
18 purpose of regulating the actions of the Kwantung Army
19 in conformity with the policy of the government.

20 ACTING PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 1938
22 will receive exhibit No. 3425.
23

24 (Whereupon, the document above
25 referred to was marked defense exhibit
No. 3425 and received in evidence.)

1 MR. BROOKS: I shall read exhibit 3425:
2 "Excerpt from the Manchurian Secret Great
3 Diary.
4 "War Ministry.
5 "Vol. I, 1931.
6 "Received at the War Ministry: Riku-Man-
7 Mitsu-Ju No. 13, Sept. 25.
8 "War Minister (MINAMI seal), Vice-Minister
9 (SUGIYAMA seal).
10 "Department Chief (KOISO seal), Section
11 Chief (NAGATA seal).
12 "Instruction given to Major-General
13 HASHIMOTO by the War Minister." This is not the
14 accused HASHIMOTO.
15 "'1. You will depart for Manchuria and
16 take charge of the liaison between the central author-
17 ities and the Kwantung Army Headquarters. For such
18 purpose the following personnel will be attached to
19 you:
20 "1 member of the General Staff.
21 "1 code officer.
22 "1 member of a section of the War Ministry.
23 "'2. Detailed instructions will be given
24 by the Vice-Minister of War.'
25 "Riku-Kun No. 19 (instruction No.)

1 "Dated Sept. 24th, 1931.

2 "(Man-Mitsu No. 13, Sept. 25)

3 "Vice-Minister (SUGIYAMA seal);

4 "Department-Chief (KOISO seal);

5 "Section-Chief (NAGATA seal).....

6 "Instruction to Major-General HASHIMOTO from
7 the Vice-Minister.

8 "'1. Taking the policy of the Empire into
9 careful consideration vis-a-vis actions of the
10 Kwantung Army, you shall endeavor, in matters seriously
11 affecting such policy, not to let the army act solely
12 on its judgment of the immediate situation, but make
13 it apply for instructions of the central authorities.

14 "'2. You shall make the army conform with
15 the intention of the central authorities with regard
16 to its propaganda.'

17 "Riku-Man-Mitsu No. 7.

18 "Dated Sept. 24th, 1931."

19 As to the circumstances thereof, I refer to
20 the testimony of MORISHIMA, Morito, court record
21 page 3,091.

22 I will next read exhibit 3422-I.

23 "Sept. 25, 1931.

24 "From War Minister.

25 "To Commander of Kwantung Army.

1 "Telegram No. Riku-Jan 31.

2 "By virtue of the governmental declara-
3 tion"-- this is defense document 1947 on our order
4 of proof, if your Honor pleases, this governmental
5 declaration --" recently proclaimed, the course of
6 the Empire's policy has become clear of itself.

7 "At the cabinet meeting at this 25th, all
8 the members agreed to make every possible effort,
9 with unity and cooperation, for the execution of the
10 purport of the said declaration. Now that the country
11 is facing an emergency, it is absolutely necessary
12 that both the diplomatic and military authorities
13 on the spot should renounce minor differences for
14 the greater common aim and do their duty by mutual
15 cooperation for the interest of the country. The
16 Foreign Minister has instructed the diplomatic organs
17 on the spot to the same effect as above.

18 "Such a necessity is felt even more at
19 this time when an end shall be put to military actions
20 and a turn for diplomatic negotiations be commenced."

21 At this time I ask that defense document
22 1947 be shown to the witness.

23 (Whereupon, a document was handed
24 to the witness.)
25

MR. WOOLFORTH: If the Tribunal please --

ACTING PRESIDENT: Please wait until we
1 , get the document so that we can see what it is.

2 MR. BROOKS: Has the witness been given
3 defense document 1947?

4 Q Is it the governmental declaration referred
5 to in the telegram last read?

6 A Yes.

7 MR. BROOKS: May it please the Tribunal,
8 although defense document 1947 was rejected at the
9 time of ITAGAMI's case on the ground that it should
10 have been produced in the general phase, court record
11 pages 30,058-30,060, we wish to offer it again in
12 evidence for the three following reasons:
13

14 Firstly, MINAMI specifically mentions in
15 his telegram just now read that he and other members
16 of the cabinet will make every possible effort for the
17 execution of the purport of the said document, that
18 is to say, the governmental declaration of September
19 24, 1931. According to the rule of this Tribunal,
20 the governmental declaration referred to must be
21 produced in evidence in such cases.

22 Secondly, the governmental declaration is
23 not only an integral part of his top secret instruc-
24 tion to the Commander of the Kwantung Army, but the
25 basis of his actions in connection with the Manchurian

1 Incident. Unless the governmental declaration be
2 admitted in evidence, there will be no standard to
3 judge his conduct in the events that followed.

4 Thirdly, the governmental declaration itself
5 was made by a unanimous resolution of MINAMI and
6 other members of the cabinet. It is a public manifes-
7 tation of MINAMI's attitude towards the incident,
8 while the telegram above mentioned was a confidential
9 expression thereof. Whether these two agree or not
10 will have a vital importance in the defense of
11 MINAMI. We respectfully submit, therefore, that
12 defense document 1947 is more relevant and material
13 to MINAMI's individual case than it was to the general
14 phase and that now is the correct time to present the
15 document into evidence, especially in relation to
16 paragraphs 4 and 5, which are all I wish to read.

17 (Whereupon, Mr. Woolworth approached
18 the lectern.)

19 ACTING PRESIDENT: Will you present your
20 objections after lunch?

21 The court will recess until 1:30.

22 (Whereupon, at 1200, a recess was
23 taken.)
24
25

AFTERNOON SESSION

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2
3 The Tribunal met, pursuant to recess, at 1330.

4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 ACTING PRESIDENT: I thought that Colonel
7 Woolworth was about to put up his objections.

8 MR. COMYNS CARR: I will take the objection,
9 if it please the Tribunal.

10 - - -

11 H I S A S H I T A K E D A, recalled as a witness
12 on behalf of the defense, resumed the stand
13 and testified through Japanese interpreters
14 as follows:

15 MR. COMYNS CARR: If it please the Tribunal,
16 in our submission, no good reason has been shown why
17 the previous ruling of the Court on this document
18 should be changed. It is sought to justify it by
19 saying that this document is the document referred
20 to in exhibit 3422-I. The document purports to be a
21 statement issued after the Extraordinary Cabinet
22 Meeting of September 24, 1931. The only cabinet
23 meeting referred to in exhibit 3422-I is a meeting of
24 September 25.

25 It is true that the first paragraph of

1 exhibit 3422-I refers to "a declaration recently
2 proclaimed," but one would have thought that if
3 that referred to a declaration issued after the
4 Cabinet Meeting of September 24, it would have said
5 "yesterday" and not "recently."

6 In our submission, therefore, their attempt
7 to link it up with the telegram fails and, in any
8 event, the suggestion which was successfully put for-
9 ward at page 30,060, namely, that it belonged, if
10 anywhere, in the general phase, is equally valid now.

11 MR. BROOKS: If the Tribunal please, I
12 think the witness has confirmed the governmental
13 declaration as the one referred to in the telegram,
14 exhibit 3422-I.

15 As to the Cabinet Meeting of the 25th,
16 referred to in exhibit 3422-I, in the second para-
17 graph, that is another meeting which will be shown
18 later.

19 The defense offers this document, 1947, for
20 the purpose of corroborating the contents of the
21 telegram of the War Minister embodied in exhibit
22 3422-I. The telegram, exhibit 3422-I, says that,
23 "By virtue of the governmental declaration recently
24 proclaimed, the course of the Empire's policy has
25 become clear of itself," and also that all members

1 of the Cabinet agreed to execute the purport of said
2 declaration. This declaration is, therefore, the
3 basis of a part of the War Minister's instruction to
4 the Kwantung Army. This will show that MINAMI's
5 confidential expression of his intention and the
6 public announcement of the government were entirely
7 in accord with each other. This will refute all the
8 evidence produced by the prosecution alleging that
9 MINAMI advocated a positive policy towards Manchuria
10 and brought about the downfall of the Cabinet. The
11 certificate shows that it is an official document
12 of the Extraordinary Cabinet Meeting of the 24th of
13 September, 1931. Paragraphs 4 and 5 thereof are not
14 repetitious and set out the official declaration of
15 the WAKATSUKI Cabinet, of which MINAMI was the War
16 Minister, and I agree that the document would not
17 be so relevant to ITAGAKI's case because he was not
18 a member of this Cabinet, and he was not related to
19 the telegrams and so forth connected therewith except
20 very remotely.

21
22 Therefore, I say that now is the correct
23 time to present this document into evidence.

24 ACTING PRESIDENT: How do you identify that
25 as the governmental declaration referred to in ex-
hibit 3422-I?

1 MR. BROOKS: I had asked the witness that,
2 your Honor, when I first started to offer it, if you
3 recall.

4 ACTING PRESIDENT: The witness cannot
5 identify this as that particular declaration.

6 MR. BROOKS: If the Court will remember,
7 this witness compiled the Manchurian History and is
8 familiar with the governmental declaration spoken of
9 in this telegram itself. I submit that that is a
10 matter that could be very well examined into on
11 cross-examination if there is any doubt on the part
12 of the prosecution on the same point.

13 ACTING PRESIDENT: By a majority vote, the
14 objection is sustained.

15 Before you proceed to another matter, I
16 want to read a notice that I overlooked.

17 With the Tribunal's permission, the accused
18 TOGO will be absent from the courtroom the whole of
19 the afternoon session conferring with his counsel.

20 MR. BROOKS: I will now read exhibit 3342-J:

21 "September 25th, 1931

22 "From: War Minister.

23 "To: Commander of Kwantung Army.

24 "Telegram No: Riku-Man 35.

25 "'It is strictly prohibited to have any

1 MR. BROOKS: I had asked the witness that,
2 your Honor, when I first started to offer it, if you
3 recall.

4 ACTING PRESIDENT: The witness cannot
5 identify this as that particular declaration.

6 MR. BROOKS: If the Court will remember,
7 this witness compiled the Manchurian History and is
8 familiar with the governmental declaration spoken of
9 in this telegram itself. I submit that that is a
10 matter that could be very well examined into on
11 cross-examination if there is any doubt on the part
12 of the prosecution on the same point.

13 ACTING PRESIDENT: By a majority vote, the
14 objection is sustained.

15 Before you proceed to another matter, I
16 want to read a notice that I overlooked.

17 With the Tribunal's permission, the accused
18 TOGO will be absent from the courtroom the whole of
19 the afternoon session conferring with his counsel.

20 MR. BROOKS: I will now read exhibit 3342-J:

21 "September 25th, 1931

22 "From: War Minister.

23 "To: Commander of Kwantung Army.

24 "Telegram No: Riku-Man 35.

25 "It is strictly prohibited to have any

1 connection with the movement for promoting a new
2 regime in Manchuria."

3 In order to substantiate this telegram, the
4 defense wishes first to present two documents for
5 identification only. The first one is a "Collection
6 of Documents referring to the League of Nations,"
7 containing a speech of MATSUOKA, made on November,
8 1932, at the League Council. This speech was pro-
9 cessed as defense document No. 131.

10 The other is entitled "Observations of the
11 Japanese Government on the Report of the Commission
12 of Inquiry" and was processed as defense document No.
13 189. Both documents were rejected previously on the
14 ground that they contained arguments, court record
15 pages 19,692 and 19,699. However, as I wish to sub-
16 mit only a short excerpt from each of them, the
17 originals are offered now for identification only.

18 CLERK OF THE COURT: Volume entitled,
19 "Collection of Documents relating to the League of
20 Nations, Volume III," will receive exhibit No. 3426
21 for identification only.

22
23 Volume entitled, "Observations of the Japa-
24 nese Government on the Report of the Commission of
25 Inquiry," will receive exhibit No. 3427 for identi-
fication only.

TAKEDA

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(Whereupon, the documents above referred to were marked defense exhibit No. 3426 and defense exhibit No. 3427, respectively, for identification.)

1 MR. BROOKS: I now offer in evidence defense
2 document 2513, an excerpt from exhibit 3426, and I
3 also offer defense document 2514, an excerpt from
4 exhibit 3427.

5 We present these two rather similar documents,
6 merely to substantiate the purpose and contents of
7 MINAMI's instructions, embodied in the telegram just
8 now read.

9 MR. WOOLWORTH: If the Tribunal please,
10 prosecution objects to the introduction of these
11 documents into evidence.

12 I invite the Court's attention to the fact
13 that that document, exhibit 3427, was rejected by the
14 Tribunal at record page 18,765 and again at 18,694.
15 This exhibit, 3427, is merely an ex parte statement
16 and has no probative value.

17 As for exhibit 3426, the fact that MATSUOKA
18 made a speech in which he made certain statements is
19 no proof of the statements having been made. This
20 document was rejected by the Tribunal previously at
21 page 19,700 of the record.

22 MR. BROOKS: If the Tribunal please, they will
23 notice that both of these defense documents, 2514 and
24 2513, are from two different sources and are quite
25 similar and talk of similar contents.

1 In reply to the objection, I submit that
2 there are 3 points to be argued:

3 Firstly, according to Cockles' Evidence
4 (4th Edition, page 345), "There are, generally, no
5 degrees of secondary evidence. When a party is at
6 liberty to adduce secondary evidence, he may put in
7 any description of the same he pleases."

8 The defense has shown that since MINAMI's
9 first application on November 11, 1946 was heard in
10 chambers on November 18, 1946, Paper No. 591 of
11 December 3, 1946, a proper search has been made for
12 the originals and that the originals are at least
13 not immediately available in the meaning of Article 13,
14 c (5) of the Charter. In such a case, I submit
15 that any copy should be admitted for whatever probative
16 value it may have. The question of the time when
17 and the manner how a copy is made, is a matter of
18 weight or credibility, but not a matter of admissibil-
19 ity.

20 Secondly, Cockle states: "There can be
21 no doubt that an attested copy is more satisfactory,
22 and therefore, in that sense, better evidence than
23 mere parol testimony; but whether it excludes parol
24 testimony is a very different thing;" and also "If
25 indeed the party giving such parol evidence appears

1 to have better secondary evidence in his power,
2 which he does not produce, that is a fact to go to the
3 jury, from which they might sometimes presume that
4 the evidence kept back would be adverse to the party
5 withholding it; but the law makes no distinction
6 between one class of secondary evidence and another."

7 Now, the defense has presented testimony of the
8 witness as to the time and manner of the making of
9 certain copies and as to the correctness of the
10 contents thereof. Such copies constitute, therefore,
11 an integral part of the said testimony which has
12 been already received in evidence. In my submission,
13 we cannot admit the one and reject the other, which
14 is really better secondary evidence, without defeating
15 the rule above-mentioned.

16 Next, I wish the Tribunal would bear with
17 me for making another quotation from Cockle (Page 346).
18 "Public documents are only provable by oral evidence
19 when the originals are lost and copies are not
20 obtainable." That is this case. The telegrams in
21 question may be called public documents in the sense
22 that they were despatched by army authorities and
23 kept in Government files, but they were not public
24 in the sense that the public had no access thereto.
25 Even an official in charge of such files was not

to have better secondary evidence in his power,
1 which he does not produce, that is a fact to go to the
2 jury, from which they might sometimes presume that
3 the evidence kept back would be adverse to the party
4 withholding it; but the law makes no distinction
5 between one class of secondary evidence and another."

6 Now, the defense has presented testimony of the
7 witness as to the time and manner of the making of
8 certain copies and as to the correctness of the
9 contents thereof. Such copies constitute, therefore,
10 an integral part of the said testimony which has
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25 Even an official in charge of such files was not

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2 jury, from which they might sometimes presume that
3 the evidence kept back would be adverse to the party
4 withholding it; but the law makes no distinction
5 between one class of secondary evidence and another."
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7 witness as to the time and manner of the making of
8 certain copies and as to the correctness of the
9 contents thereof. Such copies constitute, therefore,
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20 obtainable." That is this case. The telegrams in
21 question may be called public documents in the sense
22 that they were despatched by army authorities and
23 kept in Government files, but they were not public
24 in the sense that the public had no access thereto.
25 Even an official in charge of such files was not

allowed to make a copy. In the present case, however,
1 an extraordinary occasion arose, in which the witness,
2 as compiler of the "History of the Manchurian Incident",
3 was authorized to make as many copies as he liked.
4 If any of the copies so made in the course of his duty
5 remains today and is identified by him as such, is
6 it not the next best evidence, in the absence of the
7 original, and as authentic as any copy attested by a
8 Government office? This is the present case and in
9 the absence of the original, these statements from two
10 different sources attest to what were not original
11 telegrams and were made before one of the highest
12 international tribunals of the time.

13
14 In conclusion, it is respectfully submitted
15 that the whole matter rests upon the credibility of
16 the witness, as to what he has previously testified
17 to, which may be attacked by means of cross-examination,
18 but not by the objection to the admissibility of
19 evidence as to what was in the originals, not in copies,
20 but in the originals.

21 As to relevancy and materiality of the
22 telegrams embodied in these copies, it goes without
23 saying that they have a great bearing on MINAMI's case.
24 Although some of them show the attitude of the General
25 Staff, which did not exactly concur with that of the

1 War Minister, the contrast itself will prove the true
2 and difficult situation which faced MINAMI at his
3 post.

4 Many matters are tied up in and woven among
5 the documents referred to here now, some of which
6 we have not been able to produce copies even of
7 originals and must rely upon secondary evidence of
8 this nature.

9 That is all, sir.

10 ACTING PRESIDENT: By a majority vote the
11 objection as to both documents is sustained.

12 BY MR. BROOKS: (Continued)

13 Q Mr. Witness, I would like to ask you a
14 question at this time. Have you any recollection as
15 to the fact that the War Minister sent a telegraphic
16 instruction on September 20, 1931, besides the one
17 sent on September 25, prohibiting participation in the
18 establishment of a new regime?

19 A In regards to this matter, there was only
20 one telegram sent; that of the 25th of September.
21 There are none besides this.

22 Q Can you explain why there is a difference
23 of one day in the publication of the Japanese Govern-
24 ment?

25 MR. WOOLWORTH: If the Tribunal please, I

1 object to that question. The matter has already
2 been ruled upon.

3 MR. BROOKS: I think the prosecution must
4 be confused on that, your Honor.

5 ACTING PRESIDENT: Doesn't this refer to the
6 two documents we just rejected?

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MR. BROOKS: That is right, your Honor; I got the wrong one. I withdraw the question.

I now read exhibit No. 3422-K:

"Sept. 29th, 1931

"From: Vice-Minister of War.

"To : Chief of Staff of Kwantung Army.

"Telegram No. Riku-Man 50.

"Rumour circulates among Cabinet members that the Commander of Kwantung Army is connected with the movement for restoration of Emperor Hsuantung. By way of precaution, the Army shall be warned to have nothing to do therewith."

As to the circumstances mentioned in this telegram and the preceding telegram, exhibit No. 3422-J, I refer the Court to the testimony of KATAKURA (Court record page 18,974) and MINAMI (Court record pages 19,783 and 19,785).

In accordance with chronological order, the defense wishes to offer in evidence defense document No. 1937, an excerpt from exhibit No. 3038-G. This is a telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army, dated October 1, 1931, and will corroborate the purport of telegram No. Riku 213, which was put in evidence as exhibit No. 3422-C.

ACTING PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Defense document 1937
will receive exhibit No. 3428.

2 ("hereupon, the document above re-
3 ferred to was marked defense exhibit No.
4 3428 and received in evidence.)

5 MR. BROOKS: I shall read exhibit No. 3428:

6 "Excerpt from the Manchurian-Secret-Great-
7 Diary.

8 "Vol. I, 1931. War Ministry.

9 "Telegram (Code) from the Vice-Minister of
10 War to the Chief of Staff, Kwantung Army.

11 "Although it is reported that the Army may
12 intend to enforce municipal administration in Chang-
13 chung, avoid taking such a step by the Army itself, in
14 compliance with the policy prescribed by Riku 213
15 (T. N. -- Telegram No.) upon questions of this kind.'

16 "(Telegram No.) Riku-Man 55

17 "(Dated) Oct. 1st, 1931.

18 "11.00 A.M. (seal)."

19 I will not read the certificate.

20 The defense would like to offer in evidence
21 defense document No. 1965, which is also an excerpt from
22 exhibit No. 3038-G. This is a telegram from the Vice-
23 Minister of War to the Chief of Staff, Kwantung Army,
24 dated November 11, 1931, and will show that the War
25

1 Minister had no knowledge why or for what duty Colonel
2 DOIHARA was sent to Tientsin.

3 ACTING PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 1965 will
5 receive exhibit No. 3429.

6 (Whereupon, the document above
7 referred to was marked defense exhibit No.
8 3429 and received in evidence.)

9 MR. BROOKS: I shall read exhibit 3429:

10 "Excerpt from the Manchurian-Secret-Great-
11 Diary.

12 "Vol. I, 1931. War Ministry.

13 "Telegram code from the Vice-Minister of War
14 to the Chief of Staff, Kwantung Army.

15 "'Happening to hear that Colonel DOIHARA is
16 presumably carrying on activities in Tientsin, we should
17 like to know what kind of duties he has been assigned
18 and also what arrangement has been made between you and
19 the China Garrison headquarters with regard to the scope
20 of his work. Further, by way of precaution, please note
21 that we are trusting the China Garrison to conduct all
22 necessary business in the North China district from a
23 standpoint of moral cooperation based on the mutual
24 respect of duties among armies. In view of the prevail-
25 ing situation, please inform us as to the duties of any

1 person who is hereafter sent to the North China district
2 on important duty.'

3 "(Telegram No.) Riku-Man 177.

4 "(Dated November 11, 1931. 4.30 P.M. (seal))."

5 The circumstances mentioned in this telegram
6 were testified by KATAKURA (Court record page 18,969).

7 I now refer the Tribunal to exhibit No. 286,
8 telegram of November 1, 1931, from the Foreign Minister
9 to Consul-General in Tientsin, wherein it is stated in
10 paragraph 4 that MINAMI was opposed to the independence
11 of Manchuria and to the restoration of Pu-Yi. I invite
12 the Tribunal to read this in connection with exhibit No.
13 299, a telegram of November 15, 1931, from War Minister
14 MINAMI to the Commander of the Kwantung Army, wherein
15 MINAMI cautioned General HONJO that the army should not
16 meddle with the new regime movement in Manchuria but to
17 leave such matters to the Foreign Ministry to handle.

18 I now read exhibit 3422-L:

19 "Nov. 16th, 1931.

20 "From: Chief of General Staff.

21 "To : Commander of Kwantung Army.

22 "Telegram No.: Rin-san-I-Mei 4.

23 "1. In case the offensive of Ma Chan-shan's
24 army compels the outbreak of fighting, your army shall
25 try to destroy the enemy by resolute actions, even though

1 you have to advance temporarily to the north of
2 Tsitsihar.

3 "2. In view of the general situation, however,
4 your army shall not make use of the Eastern Chinese
5 Railway. Also, your actions in both directions towards
6 east and west along the Eastern Chinese Railway shall
7 be limited to the minimum really necessary for self-
8 defense.

9 "3. Although it may be unavoidable to enter
10 Tsitsihar temporarily on account of strategic necessity,
11 your army is not permitted to occupy that place to con-
12 trol North Manchuria. The main force of the troops
13 used in that direction shall be concentrated as soon
14 as possible to the east of Chengchiatun (inclusive of
15 the town)."

16 I now read exhibit No. 3422-M:

17 "Nov. 24th, 1931.

18 "From: Chief of General Staff.

19 "To : Commander of Kwantung Army.

20 "Telegram No. 163.

21 "1. Take steps immediately, irrespective of
22 any circumstance, to withdraw the division headquarters
23 and main force to the area previously ordered, leaving
24 in and around Tsitsihar only a unit composed more or
25 less of one infantry regiment in line with the

1 established policy.

2 "12. The above-mentioned unit left behind must
3 also be withdrawn within about two weeks."

4 I now read exhibit 3422-N:

5 "Nov. 27th, 1931.

6 "From: Chief of General Staff.

7 "To : Commander of Kwantung Army.

8 "Telegram No: Rin-San-I-Mei 6.

9 "'1. Your telegram Kan-san 360 was received.

10 "'2. Unless a new duty is assigned, your army
11 shall not take any operational action at your own
12 discretion to the west of the Liao River, the south
13 of Chenghiatun vicinity and the south of the Cheng-
14 chiatun-Tungliao Railway for the reinforcement of the
15 China Garrison."

16 As to the circumstances mentioned in these
17 telegrams, I refer to testimonies of KATAKURA (Court
18 record page 19,351) and KAWABE (Court record pages
19 19,417, 19,418-19,419). As to the last telegram in
20 particular, that is, exhibit No. 3422-N, I refer to
21 MINAMI's testimony (Court record pages 19,788 - 19,789)
22 and KOISO's testimony (Court record page 32,219) and to
23 exhibit No. 57, the Lytton Report, at page 77, where it
24 is stated that on November 29th, to the great surprise
25 of the Chinese, the Japanese forces were withdrawn to

Hsinmin.

TAKEDA

DIRECT

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1 To continue reading exhibit No. 3422-0:

2 "Jan. 27th, 1932.

3 "From: Commander of Kwantung Army.

4 "To: War Minister and Chief of General Staff.

5 "Telegram No.: Kan-san 355.

6 "'Following the northern expedition of the
7 Kirin Army, the former Ting Chao Army looted Fuchiatic, and fighting broke out today centering around the
8 Japanese cemetery and the airfield of Harbin. Our air
9 officer was shot. Harbin is becoming disorderly. Tak-
10 ing these circumstances into consideration, the Kwantung
11 Army wishes to accomplish the protection of our resi-
12 dents by dispatching a unit composed of not more than
13 two infantry battalions, in case hostilities are likely
14 to extend to the city of Harbin. Kindly give your ap-
15 proval in advance.'"

16
17 I now read exhibit 3422-P:

18 "Jan. 28th, 1932.

19 "From: Vice-Chief of General Staff.

20 "To : Commander of Kwantung Army.

21
22 "'Your telegram Kan-san 355 was received. In
23 view of the rampancy of armed bandits in North Man-
24 churia and for the purpose of reinforcing our forces
25 there, the Chief of General Staff approves the dispatch
of troops to Harbin as mentioned in your telegram.'"

1 As to the circumstances mentioned in these
2 telegrams, I refer to testimonies of KATAKURA (Court
3 record pages 18,994 - 18,995) and KAWABE (Court record
4 pages 19,422 - 19,423), and KOISO (Court record pages
5 32,320 - 32,221) and wish to call to the attention of the
6 Tribunal that MINAMI was no longer the War Minister at
7 that time.

8 The prosecution may now cross-examine.

9 MR. WOOLWORTH: No cross-examination of this
10 witness.

11 MR. BROOKS: May the witness be excused on the
12 usual terms?

13 ACTING PRESIDENT: He is excused accordingly.

14 (Whereupon, the witness was ex-
15 cused.)
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1 MR. BROOKS: 23, Language Section.

2 Now the defense would like to call
3 KATAKURA, Tadashi as a witness.

4 ACTING PRESIDENT: Wasn't this one of the
5 witnesses the prosecution isn't going to cross-examine?

6 MR. BROOKS: I have some additional documents
7 I wish to present.

8 This witness has been previously sworn.

9 T A D A S H I K A T A K U R A, recalled as a
10 witness in behalf of the defense, having been
11 previously sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BROOKS:

14 Q State your name and address.

15 A My name is KATAKURA, Tadashi. My present
16 address is No. 2658, Kami-meguro-gocho, Meguro-ku,
17 Tokyo.

18 ACTING PRESIDENT: I want to remind you,
19 witness, that you are still under oath.

20 MR. BROOKS: I ask that defense document
21 2047 be shown to the witness.

22 (Whereupon, a document was shown
23 to the witness.)

24 Q Is that your affidavit?

25 A Yes.

1 Q Are the contents thereof true and correct?

2 A Yes, true and correct.

3 MR. BROOKS: I offer defense document 2047
4 in evidence.

5 ACTING PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Defense document 2047
8 will receive exhibit No. 3430.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 3430 and received in evidence.)

12 MR. BROOKS: I shall read the exhibit,
13 starting from paragraph 2.

14 "2. I was attached to the Kwantung Army
15 headquarters from August, 1930, to August, 1932, and
16 connected specially with the handling of secret tele-
17 grams. The copies of telegrams attached hereto are
18 truly the same as those telegrams which were handled
19 by me at that time.

20 "3. Among the said copies of telegrams
21 attached hereto, the incoming ones at the Kwantung
22 Army headquarters addressed to the Commander HONJO
23 or the Chief of Staff MIYAKO were, first of all, handed
24 to me by the Code Section, and then submitted to the
25 said superior concerned, after my reading aloud to him

1 the first thereof. The outgoing telegrams from the
2 Commander or the Chief of Staff of the Kwantung Army
3 to the central army authorities were, first of all,
4 drafted by me under the order of the said superior
5 concerned. Upon his approval of my draft, I had it
6 translated into code by the Code Section, and then the
7 dispatch was made."

8 I ask that exhibits 3422-A to P be shown
9 to the witness. Those are defense documents 2048-A
10 to P.

11 (Whereupon, documents were
12 handed to the witness.)

13 Q Are those the telegrams referred to in
14 paragraph 2 and 3 of your affidavit?

15 A (There was no interpreted response.)

16 Q You have carefully examined them and con-
17 sidered them as copies of the telegrams originally
18 handled by you, is that correct?

19 A These are the very documents which I men-
20 tion in my affidavit.

21 Q In paragraph 2 you mention the copies of
22 telegrams attached. These are those which you are
23 referring to there, is that correct?

24 A Yes.

25 MR. BROOKS: The prosecution may cross-examine.

1 MR. WOOLWORTH: No cross-examination of this
2 witness, if the Tribunal please.

3 MR. BROOKS: May the witness be excused on
4 the usual terms?

5 ACTING PRESIDENT: He is excused accord-
6 ingly.

7 (Whereupon the witness was excused.)

8 MR. BROOKS: The defense requests that
9 KODAMA, Tomeo be called as the next witness.

10 MARSHAL OF THE COURT: Mr. President, the
11 witness KODAMA, Tomeo is in court. He has previously
12 testified before the Tribunal.

13 T O M E O K O D A M A. called as a witness on
14 behalf of the defense, testified as follows:

15 ACTING PRESIDENT: You are warned that you
16 are still under oath, Witness.

17 BY MR. BROOKS:

18 Q Mr. Witness, have you ever testified in this
19 court before?

20 A No, I have not.

21 MR. BROOKS: I didn't think he had, your
22 Honor.

23 (Whereupon, the witness was duly sworn.)
24
25

DIRECT EXAMINATION

1 BY MR. BROOKS:

2 Q State your name and address, please.

3 A My name is KODAMA, Tomeo. My address is
4 31 Kitazawa-machi, 2-chome, Setagaya-ku, Tokyo.

5 MR. BROOKS: I ask that defense document 1760
6 (revised) be shown to the witness.

7 (Thereupon, a document was handed
8 to the witness.)

9 Q Is that your affidavit?

10 A Yes.

11 Q Are the contents true and correct?

12 A Yes.

13 MR. BROOKS: I offer defense document 1760
14 in evidence.

15 MR. WOOLWORTH: If the Tribunal please, the
16 prosecution objects to certain parts of this affi-
17 davit, beginning with the fifth line of paragraph 3
18 and extending to the end of that paragraph. Whether
19 it was the policy of General MINAMI or not as stated,
20 reference is made to exhibit 2022-A, which speaks for
21 itself.
22

23 I further object to paragraph 5 of the affi-
24 davit, as it is repetitious, a re-statement of matters
25 which are contained in regulations and laws which are

already in evidence.

1 I further object to that part of paragraph
2 6 beginning, in the sixth line, with the words "Com-
3 mander HAYASHI." as stating a conclusion not within
4 the testimonial knowledge of the witness.

5 I further object to the last two sentences of
6 paragraph 9 on page 5, beginning with the words "Chief
7 of General Staff." The order is the best evidence.

8 MR. BROOKS: As to that last remark, your
9 Honor, of course you realize this is secondary evidence
10 I am offering. The original is not available, as I
11 have shown by previous evidence. That is why I am
12 offering testimony by witnesses, to cover part of this
13 material.

14 Now, as to paragraph 3, the comment there
15 connects the testimony of this witness, what he is try-
16 ing to say, tying in this testimony with exhibit 2022-A,
17 and explains the statement on what is being talked about.
18 That is why I refer to it, so that the Court will under-
19 stand what the exhibit is about.

20 The matters referred to in paragraph 5 are
21 briefly summarizing evidence of the general phase as
22 to our contention about responsibility, and it is
23 therefore calling attention to other evidence which
24 is gone into in greater detail in the general phase,
25

1 bringing out certain points in order to make the
2 rest of the evidence relate to it and make sense.

3 As to paragraph 7, what Commander HAYASHI
4 judged, this witness was the Chief of Staff and he was
5 in a position to know the judgment of his commander
6 and to testify as to what he did and as to the reasons
7 therefor.

8 As to the last objection, I think I covered
9 that.

10 ACTING PRESIDENT: By a majority vote the
11 objection as to paragraphs 3 and 5 are sustained.
12 Otherwise the objection is overruled.

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1 MR. BROOKS: Paragraph 3 starts with "In
2 the spring of 1931" and extends to the end of the
3 paragraph, is that right, your Honor, and all of para-
4 graph 5?

5 CLERK OF THE COURT: Defense document 1760
6 revised will receive exhibit No. 3431.

7 (Whereupon, the document above
8 referred to was marked defense exhibit No.
9 3431 and received in evidence.)

10 MR. BROOKS: I will not read the balance of
11 paragraph 3 because, by itself, it will not be of any
12 significance. But I shall read the exhibit starting
13 from paragraph 2, skipping paragraphs 3 and 5, and
14 will stop with paragraph 7, if the language section
15 please, for a brief question.

16 I read from paragraph 2:

17 "From December, 1930 to August, 1933 I was
18 the Chief of Staff of the Korean Army as Major-
19 General."
20

21 Skipping to paragraph 4:

22 "On the night of September 18, 1931, as soon
23 as the Korean Army received an urgent request for re-
24 inforcement from the Kwantung Army, HAYAS II, Commander
25 of Korean Army, organized a combined brigade under
Major-General KAMURA and ordered him to proceed to

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2048A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2048A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2049A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

1 original the same as the contents of the telegram of
2 the Korean Army referred to on page 3 in paragraph
3 6 of your affidavit?

4 A I will have to change my glasses. I can't
5 tell just yet.

6 Q All right.

7 A May I have the question?

8 Q In the part marked A, are the contents of
9 this copy of the telegram marked A on the second
10 page of the Japanese original the same as the con-
11 tents of the telegram of the Korean Army referred to
12 on page 3 in paragraph 6 of your affidavit? It may
13 be on the first page of that. I may have an error
14 here. That may be on the first page marked A.

15 A The telegrams are identical.

16 Q Oh, did you find it?

17 A Yes.

18 MR. BROOKS: And the telegrams are identi-
19 cal. I continue reading defense document 1760,
20 exhibit 3431 from paragraph 7 to the end:

21 "On September 21, about 10 a.m., another
22 telegram was received from the Kwantung Army urging
23 the Korean Army to send reinforcements, as not a
24 single soldier remained in Mukden, following a de-
25 spatch of the Second Division to Kirin. Commander

1 HAYASHI judged that the Kwantung Army, being so small
2 in number, might have been pressed into a desperate
3 situation, and that the lives and properties of
4 the Japanese residents might be at stake. He was
5 convinced that a reinforcement from Korea without a
6 moment's delay was absolutely necessary. Making up
7 his mind to carry out the crossing of the border on
8 his own responsibility, he ordered the NAMURA Com-
9 bined brigade to proceed to Mukden in the afternoon
10 of September 21.

11 *8. Although the act of Commander HAYASHI
12 without approval from his superior was based upon
13 his judgment of circumstances as mentioned above and
14 was ratified by Imperial sanction on September 22,
15 it is also a fact that he exceeded his authority.
16 Hence, both Commander HAYASHI and I, as his Chief of
17 Staff, submitted formal enquiries to the central
18 authorities whether or not we should resign (T.N. --
19 This enquiry is called 'Shintai-ukagai' in Japanese),
20 and expressed our penitence. A decision was later
21 made towards Commander HAYASHI and a written notice
22 was delivered to him. When Commander HAYASHI showed
23 it to me, I found it to be an Imperial reprimand is-
24 sued through the Chief of General Staff, containing
25 the words 'Warned for future action.' I, however,

1 received no punishment under any form.

2 "9. As the result of the Mukden Incident,
3 there were disturbances in Chientao district, which
4 is adjacent to North Korea. On or around September
5 24, 1931 a telegram was received from War Minister
6 MINAMI to the effect that no despatch of troops
7 should be made to the said district, but that the
8 peace and order be maintained by the consular police
9 previously stationed there. (The purport of this
10 telegram is the same as telegram Riku-man #20 of
11 September 24, 1931, from the War Minister to the
12 Commander of Korean Army). Towards the end of Oc-
13 tober, the central authorities took notice of the
14 situation which became too difficult for the police
15 alone to deal with. The Chief of General Staff is-
16 sued an order under Imperial Sanction and despatched
17 a unit to Kyokushigai in Chientao. After several
18 months the unit was withdrawn when peace and order
19 were restored.

20 "On the 7th day of April, 1947."

21 Referring back to Note 24, on the bottom of
22 page 4 in the English, the words "From the War
23 Minister to the Commander of the Korean Army" should
24 be the "Kwantung Army," and I ask that the language
25 section check that. I understand, in Japanese it is

"Kwantung Army," and here it has been put in "Korean Army." That's in exhibit 3431. The first word on

1 the bottom of page 4 of the last line should read
2 "Kwantung Army" instead of "Korean Army."
3

4 I request that exhibit 3422H be shown to
5 the witness. This is defense document 2048H.

6 (Whereupon, a document was handed
7 to the witness.)

8 Q Now, are the contents of this copy of the
9 telegram marked H on the 9th page of the Japanese
10 original the same as the contents of the telegram
11 of the War Minister referred to in paragraph 9 of
12 your affidavit?

13 A They are the same telegrams.

14 MR. BROOKS: Prosecution may cross-examine.

15 MR. WOOLWORTH: If the Tribunal please.

16 ACTING PRESIDENT: Colonel Woolworth.

17 CROSS-EXAMINATION

18 BY MR. WOOLWORTH:

19 Q Witness, I refer you to exhibit 3422A and
20 ask that a copy be shown the witness.

21 (Whereupon, a document was handed
22 to the witness.)

23 Will you please tell the Tribunal what be-
24 came of the air force which is referred to in this
25

1 telegram?

2 A This air force did not go into Manchuria
3 directly.

4 Q Where did they go?

5 A When the air force arrived at Shingishu
6 there was inclement weather and also a breakdown in
7 aircraft; that the air force withdrew to Shingishu
8 and to other bases in the rear.

9 Q When did they advance to Manchuria?

10 A About two or three days later.

11 Q Was that without Imperial sanction also?

12 A At that time there was an Imperial Order
13 sanctioning it.

14 Q That happened after the 22nd of September?

15 A Yes.

16 MR. WOOLWORTH: I have no further questions.

17 MR. BROOKS: May the witness be excused?

18 ACTING PRESIDENT: He is excused accordingly.

19 We will now take a recess for fifteen minutes.

20
21 (Whereupon, at 1445, a recess was
22 taken until 1500, after which the proceed-
23 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: The Supreme Commander, hav-
4 ing directed that Tuesday shall be a legal holiday,
5 being Justice Day, this Court will not sit on Tuesday,
6 November 11.

7 Captain Kraft.

8 LANGUAGE ARBITER (Captain Kraft): If the
9 Tribunal please, we submit the following language correc-
10 tion, reference exhibit No. 3431, page 4 last line:
11 Delete "Korean Army", substitute "Kwantung Army."

12 ACTING PRESIDENT: Captain Brooks.

13 MR. BROOKS: I now offer defense document 2853,
14 a certificate of illness of the witness SHIDEHARA,
15 Kijuro.

16 ACTING PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Defense document 2853
18 will receive exhibit No. 3432.

19 (Whereupon, the document above referred
20 to was marked defense exhibit No. 3432 and received
21 in evidence.)

22 MR. BROOKS: I will read exhibit 3432:

23 "Diagnosis.

24 "Name: Kijuro SHIDEHARA. Born: August 11th,
25 1872.

1 "Name of illness: Lumbago.

2 "Severe pain around hips, particularly painful
3 at times when sitting or lying down which makes it
4 difficult to walk.

5 "It is necessary for him to be confined in
6 bed and to keep warm and quiet for the time being and
7 to have treatment.

8 "It is certified that the above diagnosis is
9 given by me.

10 "Dated: November 7th, 1947.

11 "Mr. Hirotochi H SHIMOTO

12 "St. Lukes International Hospital.

13 "53 Akashicho, Kyobashi-ku, Tokyo."

14 The defense offer in evidence defense docu-
15 ment 1964, the affidavit of SHIDEHARA, Kijuro.

16 MR. COMYNS CARR: May it please the Tribunal,
17 the prosecution objects to this affidavit being
18 received without cross-examination and, in view of
19 the stage of the trial which has been reached and the
20 advanced age of the witness, suggests that it be desirable
21 that his cross-examination should be done on commission.
22 It would not be a very lengthy cross-examination, but
23 the matters are of some importance.

24 MR. BROOKS: If the Court please, I would like
25 to read the affidavit at this time and will agree to

1 the prosecution submitting any questions in interroga-
2 torics by way of cross-examination. I think we can get
3 together on the cross-examination being very brief.
4 They can submit them, put it in writing, and present
5 it to the Court at our next session. I believe we will
6 have time to do that over the intervening holiday.

7 I want to point out that this affidavit, on
8 page 3, defense document 1964, was taken on July 28,
9 1947. I believe that the rights of the prosecution
10 for cross-examination can be fully protected by such
11 interrogatories as they may care to file, and it would
12 save appointing a commission therefor because I would
13 be very agreeable to any cross-examination they may want
14 to make.

15 MR. CONYNS CARR: In the submission of the
16 prosecution, cross-examination by interrogatories is
17 extremely unsatisfactory and they would prefer that
18 the cross-examination should be oral. One can never
19 be sure what further questions it may become necessary
20 to put in view of the answers of the witness to those
21 put in the first instance.

22 With regard to reading the affidavit now, the
23 prosecution submits that that should not be done until
24 the cross-examination can be read with it.
25

MR. BROOKS: On that latter point, your Honor,

1 I would like to have the affidavit read now because it
2 fits into the orderly procedure and presentation of
3 this case and makes clearer the understanding of the
4 documents that will follow and the ones that have just
5 preceded it. And I submit that it would be better, of
6 course, if we could have both of them at this time --
7 both the affidavit and the cross-examination -- but
8 since the latter is not possible that is no reason
9 for excluding the former.

10 ACTING PRESIDENT: A majority of the Court
11 believe that this testimony or the testimony of this
12 witness should be taken by commission. It is so
13 ordered.

14 MR. BROOKS: The affidavit will then not be
15 presented at this time, is that correct?

16 ACTING PRESIDENT: Not admitted at this time.

17 MR. BROOKS: If the Tribunal please, what will
18 be the date for scheduling this commission? I under-
19 stand that it is possible that this witness may under-
20 go an operation. If that is true, at his age there
21 might be danger of his not recovering and I think an
22 early date should be set if possible. Might I
23 suggest that we meet in Chambers with the prosecution
24 immediately following the adjournment of Court and pass
25 upon this if it is agreeable?

1 ACTING PRESIDENT: That is agreeable.

2 MR. BROOKS: The defense offers next in
3 evidence defense document No. 1784, an affidavit of
4 Patrick J. Hurley, Secretary of War for the United
5 States in 1931.

6 ACTING PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 1784
8 will receive exhibit No. 3433.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 3433 and received in evidence.)

12 MR. BROOKS: I shall read exhibit 3433:

13 "THE UNITED STATES OF AMERICA, et al.

14 --A.G. INST--

15 "WARREN, S. D. O., et al.

16 "UNITED STATES OF AMERICA ss.

17 "DISTRICT OF COLUMBIA.

18 "I, Patrick J. Hurley, being first duly sworn,
19 depose and say:

20 "I was Secretary of War for the United States
21 in 1931 and was in the Far East at the time of the
22 Manchurian Incident.

23 "I have read the statement made by General
24 MIAMI commencing on page 19,884 of the Proceedings for
25 14 April, 1947, starting with line 23 as follows:

1 "I think it was around the middle of October,
2 1931 when the United States Secretary of War, Mr. Patrick
3 Hurley, suddenly made a call on me. Mr. Hurley was
4 Secretary of War in the Hoover Cabinet. His mission
5 was to survey and investigate conditions in the
6 Philippines and it was on his return home to the United
7 States that the Manchurian Incident broke out. On
8 account of that incident he paid me this sudden call.

9 "At that time Mr. Hurley said that he was to
10 return to the United States immediately after complet-
11 ing his investigation of conditions in the Philippines
12 but that in the light of the new situation he was
13 exceedingly desirous of meeting me, the War Minister,
14 directly to ask me about the incident. At that time
15 Mr. Hurley addressed me three simple and direct ques-
16 tions:

17 "First question: How did the Lukuoehiao" --
18 that should be spelled L-i-u hyphen t apostrophe i-a-u
19 hyphen k-o-u.-- "Incident break out?

20 "The second question: How far were the
21 hostilities going to continue?

22 "And the third point was: Is Japan going to
23 occupy Manchuria? Is Manchuria going to be made a
24 protectorate of Japan or is Manchuria going to become
25 an independent state? That was the third question.

1 "With regard to the first question I replied
2 that the L-i-u hyphen t apostrophe i-a-u hyphen k-o-u
3 Incident occurred as a result of the destructive action
4 by regular troops of the Chinese Army, and that the
5 Japanese had taken action in exercise of a legitimate
6 right of self-defense for the protection of their
7 interests.

8 " In reply to the second question I said that
9 hostilities had already begun, but that it was the
10 policy of the Japanese Government to do whatever was
11 in its power to bring about a local settlement of the
12 incident, and that it was going to pursue a policy of
13 nonextension and nonaggravation. However, that the
14 Japanese Government was unable to predict how far the
15 hostilities might be extended, it all depending on
16 the actions that might be taken on the Chinese side.
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1 "With regard to the third question I said
2 that Japan had never at any time conceived of the idea
3 of taking Manchuria as her territory or to make Man-
4 churia a protectorate of Japan, nor even to assist
5 in the independence of that country. And finally I
6 said that this was the policy of the Government of
7 Japan and that as a Cabinet Minister I supported this
8 policy.

9
10 "and, therefore, with regard to the question
11 that was asked of me awhile ago I must say that such
12 a thing had never at any time occurred in my mind at
13 that time. Mr. Hurley well understood my explanation
14 of the situation and told me that it was worth-while
15 seeing me because he had carried out the purpose of
16 his call on me, and gave me his photograph as a souvenir.

17 "I feel that what I have just related to
18 you will be of some assistance to you with regard to
19 your question because the remarks that I made to Mr.
20 Hurley were straightforward remarks which were con-
21 sistent with the situation as it then existed.

22 "Q When did this conversation with Mr. Hur-
23 ley take place?

24 "A I do not remember the date, but I think
25 it was in the middle of October.'

"I recall meeting General MIKAMI around the

1 middle of October 1931 and addressing him on the
2 points quoted above, and receiving in reply substan-
3 tially the aforesaid answers.

4 "General MINAMI advised me that the policy
5 of the WAKATSUKI Cabinet was to remain within the
6 principles of the Nine Power Pact, to limit the
7 effect of the Mukden Incident, and to maintain friendly
8 relations with the League of Nations.

9 "I also remember having presented General
10 MINAMI with one of my photographs and receiving one
11 from him.

12 "Signed: Patrick J. Hurley.

13 "Subscribed and sworn to before me at Wash-
14 ington, District of Columbia, this 7th day of June,
15 1947.

16 "Maurice Love, Notary Public, District of
17 Columbia."

18 Now, I request that KAWABE, Torashiro be
19 called as the next witness.

20 MARSHAL OF THE COURT: Mr. President, the
21 witness KAWABE, Torashiro is in court. He has prev-
22 iously testified before this Tribunal.
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1 T O R A S H I R O K A W A B E, recalled as a wit-
2 ness on behalf of the defense, having been pre-
3 viously sworn, testified through Japanese inter-
4 preters as follows:

5 ACTING PRESIDENT: You are reminded that you
6 are still under oath.

7 DIRECT EXAMINATION

8 BY MR. BROOKS:

9 Q State your name and address, please.

10 A My name is KAWABE, Torashiro; my address,
11 460 Azo-o-machi, Jindai-mura, Tokyo Metropolis.

12 MR. BROOKS: I ask that defense document
13 2588 be shown to the witness.

14 (Whereupon, a document was handed to
15 the witness.)

16 Q Is it your affidavit?

17 A Yes.

18 Q Are the contents thereof true and correct?

19 A Yes.

20 MR. BROOKS: I offer defense document 2588 in
21 evidence.

22 MR. WOOLWORTH: If the Tribunal please, the
23 prosecution desires to object to paragraph 5 of this
24 affidavit, appearing at pages 5 and 6, on the ground
25 that it is argumentative, not proper. And, further,

1 to that part of paragraph 2 on page 2 beginning
2 "after his arrival--" and ending at the end of the para-
3 graph. The instructions given are the best evidence.

4 MR. BROOKS: If your Honor please, this is
5 secondary evidence as to these instructions and is the
6 only evidence available of the instructions, what they
7 are, is what this witness recalls of them because of
8 the functions that he performed with the General Staff
9 at that time. And because of his position I think he
10 is capable of testifying as a matter of fact as to the
11 things that happened which have some relation to the
12 testimony of MIAMI, as will be pointed out later.
13 The prosecution can attack this by way of cross-
14 examination because we are putting it in to confirm
15 certain matters, and I think cross-examination is the
16 proper way to meet this rather than by objection. We
17 admit that it will not have as much probative value
18 as the original instructions if they could be pro-
19 duced, but we do assert that it has some probative
20 value and should be received for whatever probative
21 value it may have, depending upon cross-examination
22 of the prosecution.

23 That is all I have, your Honor.

24 ACTING PRESIDENT: By a majority, the objec-
25 tion is sustained as to paragraph 5, and overruled as

1 to paragraph 2.

2 Omitting paragraph 5, the document will be
3 received in evidence.

4 CLERK OF THE COURT: Defense document 2588
5 will receive exhibit No. 3434.

6 (Whereupon, the document above re-
7 ferred to was marked defense exhibit No. 3434,
8 and received in evidence.)

9 MR. BROOKS: I shall read exhibit 3434 from
10 paragraph 1 to the end of paragraph 4.

11 "I, KAWABE, Torashiro, was the senior member
12 of the Second Section (in charge of operations) of
13 the General Staff, Tokyo, from April 1929 to January
14 1932.

15 "Referring to the series of telegram copies
16 contained in defense document No. 2048 A-P, I affirm
17 that B, D, F, L, M and N are correct copies of these
18 telegrams which were drafted by my section (mostly by
19 myself) and despatched to the Commander of Kwantung
20 army or his Chief of Staff under the name of the
21 Chief of General Staff or the Vice-Chief of General
22 Staff. The telegram embodied in E was received by
23 the General Staff from the Kwantung army, and I remember
24 that I read it at that time. C, G, H, I, J and K are
25 copies of telegrams despatched from the War Ministry

1 to the Kwantung army. Although they dealt with mat-
2 ters not under the jurisdiction of the General Staff,
3 I was acquainted with the fact that these telegrams
4 were despatched at that time because of the business
5 contact between the War Ministry and the General Staff."

6 I want to ask a question here, Language Sec-
7 tion.

8 I request that exhibit 3422 A to P, defense
9 document 2048 A to P, be shown to the witness.

10 (Whereupon, documents were handed
11 to the witness.)

12 Q Are these true copies of the telegrams re-
13 ferred to in paragraph 1 of your affidavit?

14 A They are.
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1 MR. BROOKS: I continue reading exhibit
2 3434, from paragraph 2, page 2, to the end of
3 paragraph 4:

4 "I was a staff officer of the Kwantung Army
5 from August 1934 to March 1936, and the Chief of the
6 Second Section (in charge of intelligence) from
7 August 1935, within that period. Lieutenant-Colonel
8 TANAKA, Ryukichi, was my subordinate as a staff
9 officer attached to the Second Section.

10 "In December 1934" -- there is an error
11 there. It should be "'34" instead of "'35."

12 "In December 1934 General EINAMI arrived
13 at his post as Commander of Kwantung Army and Amba-
14 sador plenipotentiary to Manchukuo. After his
15 arrival the General gave officers and men frequent
16 instructions, the majority of which were drafted by
17 me as a matter of duty. These instructions were made
18 naturally to serve different purposes of respective
19 occasions, but there were two ideas consistently
20 running through all, namely, (1) respect for and
21 assistance to independent Manchukuo, and (2) self-
22 reflection and elimination of the vain feeling of
23 Japanese superiority. I remember that whenever
24 these two were contained in the draft of an instruc-
25 tion, I could obtain the signature of the Commander

1 without hitch. Not only such was the sentiment of
2 General MINAMI, but all of us working under him be-
3 lieved firmly in the fact that Manchukuo would secure
4 her international status as a perfect independent
5 country.

6 "3. The Kwantung Army at that time held
7 the maintenance of peace and order within Manchukuo
8 as the primary duty under the Japan-Manchukuo proto-
9 col. The troops were put in dispersed positions to
10 the extreme, suffering the inadequacy from the mili-
11 tary point of view for the defense against dangers
12 from outside of Manchukuo. Hence, the disposition of
13 the army was even more inadequate for any offensive
14 towards U. S. S. R. or China.

15 "In May 1935 War Minister HAYASHI came to
16 Manchuria to inspect the condition of the army there.
17 Incidentally, about that time, the so-called UMEZU-Ho
18 Yin-Chin Agreement was concluded in North China.
19 Connecting with these events various rumors were
20 reported in foreign newspapers, but I regret to say
21 that such reports were full of falsehood. For in-
22 stance, I point out the following items in exhibit
23 2206-A.

24 "(a) The article to the effect that War
25 Minister HAYASHI reiterated in Mukden that the North

1 China problem was to be handled by the Kwantung
2 Army (New York Times, June 6, 1935) is entirely a
3 fabrication. In view of distinct systems of command
4 and duties of the Kwantung Army and the North China
5 Army respectively, War Minister HAYASHI would abso-
6 lutely never have made such a statement.

7 "(b) The articles to the effect that
8 General MINAMI issued secret instructions to the
9 Kwantung Army to hold themselves ready to pour into
10 China (Tribune, June 9, 1935); Sacramento Tribune,
11 June 8, 1935; Oakland Tribune, June 9, 1935) are
12 also false. Such instructions could not be given
13 without a directive from the Central Supreme Com-
14 mand, a directive which, if any, would surely have
15 been brought to my notice as a matter of function.

16 "(c) The article to the effect that the
17 Kwantung Army moved 5,000 troops from Mukden to
18 Shanhaikwan (New York Times, June 13, 1935) is also
19 false. The Kwantung Army was in such a condition at
20 that time as it was inconceivable to concentrate so
21 many troops at one spot.

22 "(d) The article to the effect that the
23 army requested Prince Toh of Inner Mongolia to move
24 his capital to a place 180 miles to the north of
25 Pailingmiao (New York Herald Tribune, June 2, 1935)

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2 Army (New York Times, June 6, 1935) is entirely a
3 fabrication. In view of distinct systems of command
4 and duties of the Kwantung Army and the North China
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11 June 8, 1935; Oakland Tribune, June 9, 1935) are
12 also false. Such instructions could not be given
13 without a directive from the Central Supreme Com-
14 mand, a directive which, if any, would surely have
15 been brought to my notice as a matter of function.

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17 Kwantung Army moved 5,000 troops from Mukden to
18 Shanhaikwan (New York Times, June 13, 1935) is also
19 false. The Kwantung Army was in such a condition at
20 that time as it was inconceivable to concentrate so
21 many troops at one spot.

22 "(d) The article to the effect that the
23 army requested Prince Toh of Inner Mongolia to move
24 his capital to a place 180 miles to the north of
25 Pailingmiao (New York Herald Tribune, June 2, 1935)

1 is also false.

2 "(e) Besides the above-mentioned items and
3 with regard to matters not directly connected with
4 the Kwantung Army, I find many canards which are
5 totally beyond my experience and knowledge of the
6 Japanese Army in general.

7 "In addition to the above comments on
8 reports of foreign sources, I must say in conclusion
9 that during the time when I was a staff officer of the
10 Kwantung Army there was no such fact as the Kwantung
11 Army issued anything like an ultimatum to China or
12 brought a similar pressure to bear upon her.

13 "4. Referring to the testimony of Mr.
14 TANAKA, Ryukichi, made at this Tribunal on July 8
15 last year, to the effect that during the tenure of
16 office of General MINAMI as Commander of Kwantung
17 Army two brigades were sent to the demilitarized zone,
18 south of the Great Wall (C. R. pp. 2,118, 2,119), I
19 state definitely that there was no such fact. As to
20 his testimony to the effect that two battalions of
21 cavalry were sent to Chahar (C. R. p. 2,118), I have
22 no recollection whatever of such a case. I can say
23 that I have a memory, amounting to conviction, on the
24 troop disposition which incapacitated the Kwantung
25 Army at that time to send expeditiously any such unit

1 of cavalry out of the border into the Chahar Province.

2 "The only instance, which I remember as the
3 case of a small unit of the Kwantung Army moving into
4 the demilitarized zone of North China, occurred in
5 the beginning of summer 1935. A small unit (about
6 one or two companies) of the 7th Division, which was
7 operating against a strong bandit force near the
8 frontier of Jehol, crossed into the demilitarized
9 zone in pursuit, but withdrew immediately within
10 the border."

11 You may cross-examine.

12 ACTING PRESIDENT: Colonel Woolworth.

13 MR. WOOLWORTH: If the Tribunal please:

14 CROSS-EXAMINATION

15 BY MR. WOOLWORTH:

16 Q How many troops were in the Kwantung Army
17 during the year 1935?

18 A In 1935 the main strength of the Kwantung
19 Army was composed of two divisions: one mixed brigade
20 and one mechanized brigade.

21 Q And how many troops did that involve?

22 A Thinking it over now, I think that the total
23 strength amounted to somewhere around 30,000, but I
24 cannot give you the exact figures.

25 Q Who was in command of the mixed brigade?

1 A I recall it was Lieutenant-General KAWA-
2 GISHI.

3 Q Was his first name Bunzaburo?

4 A Yes, Bunzaburo.

5 Q Do you recall the fact that in May of 1935
6 he moved a part of his brigade, consisting of one
7 regiment of infantry and one company of mountain
8 artillery, beyond the Great Wall?

9 A May I ask you once again with respect to
10 the date? Did you say May, 1935?

11 Q May, 1935.

12 A I don't recall it, and I don't believe that
13 such a thing happened.

14 Q Weren't you in a position to know what was
15 going on with this mixed brigade?

16 A Yes, that is why I told you I
17 believe they did not do any such thing.
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1 Q You were aware, also, that in the early
2 part of June, 1935, that mixed brigade was mobilized
3 at the Great Wall?

4 THE MONITOR: Colonel Woolworth, do you mean
5 mobilized to initiate some action, or to concentrate?

6 MR. WOOLWORTH: I mean to concentrate.

7 THE MONITOR: Thank you, sir. No corrections.

8 A It is not in my recollection.

9 Q Do you know of a place called Kupeikou?

10 A Yes.

11 Q And you say that that brigade was not mobi-
12 lized at Kupeikou in June, 1935?

13 A I do not recall for sure.

14 Q When were they mobilized there if they were
15 not mobilized in June?

16 A What I am trying to tell you is not whether
17 I recall whether they were mobilized in May or in June,
18 but the fact that I don't recall at all that this
19 brigade was ever mobilized.

20 THE MONITOR: By the order of the Kwantung
21 Army.

22 Q Were they ever concentrated there?

23 A I don't remember.

24 Q Are you acquainted with General KAWAGISHI,
25 Bunzaburo?

A Yes, I know him.

1 Q Do you consider him honest?

2 A Yes, I do.

3 Q If he stated that his brigade, his mixed
4 brigade, was concentrated at Kupeikou in June, 1935,
5 on the orders of the Kwantung Army, would you believe
6 him?

7 R. BROOKS: I object to that question as
8 immaterial and irrelevant. It is a matter for the
9 Court.

10 ACTING PRESIDENT: Objection overruled.

11 A If you give me convincing proof that such
12 orders were given, I will believe it; but at the pre-
13 sent moment I do not recall such orders ever having
14 been issued at all.

15 Q You state that the statement contained in
16 the New York Times' article of June 6 in regard to the
17 fact that Minister HAYASHI stated that the North China
18 problem was to be handled by the Kwantung Army is
19 entirely a fabrication. I ask you, if you substituted
20 the word "North China Army" for "Kwantung Army," would
21 it still be a fabrication?
22

23 A I'm sorry, I could not get your question. I
24 feel there must have been some mistake in the inter-
25 pretation.

1 THE MONITOR: English court reporter, will
2 you read the question?

3 (Whereupon, the last question was
4 read by the official court reporter.)

5 THE MONITOR: Japanese court reporter.

6 (Whereupon, the last question was
7 read by the Japanese court reporter.)

8 THE WITNESS: I feel that the question that
9 the prosecutor directed to me is contrary to my own
10 statement in my affidavit.

11 MR. WOOLWORTH: I ask that the witness be
12 directed to answer the question.

13 MR. BROOKS: If the Court please, I ask that
14 the language arbiter check that question. I think it
15 has been interpreted exactly opposite to what the
16 prosecutor asked.

17 ACTING PRESIDENT: I suggest that you ask
18 another question.

19 MR. WOOLWORTH: Yes.

20 Q I ask the witness to turn to the article in
21 the New York Times of June 6 which reported War Minis-
22 ter HAYASHI as stating that the North China problem
23 was to be handled by the Kwantung Army, if that would
24 be correct if you would substitute "North China Army"
25 for the words "Kwantung Army"; the statement in the

1 paper would then be correct?

2 A Well, that would be my own opinion; but in
3 my opinion even if you substituted the word "North
4 China" for "Kwantung" Army, even then it would not
5 be right.

6 Q You have heard of instructions being given
7 by Japanese army commanders, have you not, without
8 a directive from the central supreme command?

9 A No, I have never heard of that.

10 Q Did you know that the Korean Army was moved
11 into Manchuria without orders from the supreme command?

12 A That I knew.

13 Q And when you stated that the articles to
14 the effect that General MINAMI issued instructions to
15 the Kwantung Army were false because such instructions
16 could not be given without a directive from the central
17 supreme command, you were mistaken, were you not?

18 A. R. BROOKS: I object to that question as
19 misstating the wording and intent of the witness'
20 statement as appears on the bottom of page 3 of exhib-
21 it 3434.

22 ACTING PRESIDENT: Objection overruled.

23 A I feel that what I said -- I feel that there
24 was no mistake in what I said.

25 Q It is true, however, that there have been

1 cases of troops being moved without authority of the
2 central high command?

3 A The measure taken by the Commander of the
4 Korean Army at the time of the sudden outbreak of the
5 Manchurian Incident was extraordinary in the extreme,
6 and later the Commander of the Korean Army took further
7 measures while continuing negotiations with the central
8 authorities, and I think you can call this an exception
9 among exceptions.

10 Q There are exceptions to the rule, then.

11 Now, General MINAMI was familiar with the
12 number of troops in the Kwantung Army, was he not?

13 A I believe he was fully aware of that; at least
14 with the general figures and the general disposition
15 of the troops.

16 Q If he stated, then, that there were 60,000
17 troops in the Kwantung Army between 1934 and 1936,
18 you would believe his statement, would you?

19 A Yes, I would.

20 Q And if you read his statement that there were
21 60,000 troops in Manchuria during the time you served
22 on his staff, you would admit that you were mistaken
23 when you said 30,000, would you not?

24 A There that point needs clarification. When
25 you asked me your question in regard to the numerical

1 strength of the Kwantung Army, I told you of the num-
2 ber of divisions and other units of the Kwantung Army
3 and the approximate numerical strength such as a number
4 of divisions would represent, speaking from my memory
5 at the present time.

6 THE MONITOR: Divisions and other units.

7 A (Continuing) But besides the units, types
8 of units, which I mentioned, there were technical units,
9 communication units, railway guards, hospital units --
10 although the number of hospitals, of course, was
11 limited -- and many other special units; and if you
12 count these, it is quite true that the total number
13 would come to more than 30,000.

14 ACTING PRESIDENT: We will adjourn until
15 nine-thirty on Wednesday morning.

16 (Whereupon, at 1600, an adjournment
17 was taken until Wednesday, 12 November 1947,
18 at 0930.)

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1 strength of the Kwantung Army, I told you of the num-
2 ber of divisions and other units of the Kwantung Army
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12th Nov. 44

letter of 18th December, 44

12 NOVEMBER 1947

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I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc</u>
1758	3435		Affidavit of ONO, Ryokuichiro		32919
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2734	3440		Article appearing in the "Japan Times and Mail" re Speech made by the Accused MUTO, Akira at the Proceedings of the 4th Joint Session of the 1st, 2nd, 3rd, 4th Committee of Accounts of the House of Repre- sentatives at the 75th Session of the Diet on 19 March 1940		32966
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Of
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(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2579-A	3441-A		Letter of Safe Conduct for Bishop Walsh dated 14 October 1941 from MUTO, Akira to all Military and Civil Authorities Concerned		32991
2589	3442		Affidavit of IWAKURO, Hideo		32992
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2686	3444		Affidavit of YAMAMOTO, Kumaichi		33016

1 Wednesday, 12 November 1947

2 - - -
3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -
12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

20 - - -
21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. This certificate will be recorded and filed.

8 General Vasiliev.

9 GENERAL VASILIEV: The Soviet prosecution has
10 received by telegraph information from competent
11 Soviet organs to the effect that TOMINAGA, YANAGITA,
12 AKIJUSA, USHIROKU, and OTSUBO, the Japanese prisoners
13 of war now in the USSR who have been called to appear
14 as witnesses before the International Military Tribunal
15 in Tokyo, cannot be brought here for the reasons that
16 TOMINAGA, YANAGITA, AKIKUSA, and USHIROKU are under
17 investigation on charges of war crimes. and OTSUBO
18 is an important witness in their case.

19 ACTING PRESIDENT: Thank you.

20 Colonel Woolworth.

21 MR. WOOLWORTH: If the Tribunal please.
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1 TORASHIRO KAWABE, called as a witness
2 on behalf of the defense, resumed the stand
3 and testified through Japanese interpreters
4 as follows:

CROSS-EXAMINATION

5
6 BY MR. WOOLWORTH (Continued):

7 Q Witness, you stated at the last session of
8 the Tribunal that you were certain that General MINAMI
9 knew the number of troops and their disposition in
10 Manchuria during the time he was commanding general
11 of the Kwantung Army?

12 A Yes.

13 Q In that connection I desire to invite your
14 attention to exhibit 2207, which appears at page 15,785
15 of the record, a part of which, beginning at the third
16 line of that page, reads as follows:

17 "Q When did you take command of the Kwantung
18 Army?

19 "A December, 1934.

20 "Q And you remained in command of that army
21 for upwards of two years?

22 "A One year and three months.

23 "Q How many troops did you have under your
24 command in Manchuria at that time?

25 "A About 60,000, I believe."

1 Witness, are you willing to concede now that
2 you were mistaken in your statement in your affidavit
3 that there were only 30,000 troops in Manchuria?

4 MR. BROOKS: I object to that question, if
5 your Honors please, as being repetitious, in that the
6 witness has already answered it, and he did not state
7 it was only 30,000. He explained it in his answer.

8 ACTING PRESIDENT: I take it that it is some-
9 what repetitious, but I understand this is preliminary
10 to further questioning.

11 Objection overruled.

12 BY MR. WOOLWORTH:

13 Q If there were 60,000 troops in Manchuria, as
14 General MINAMI has stated, the Kwantung Army was not
15 in such a condition at that time as it was inconceiv-
16 able to concentrate so many troops at one spot, isn't
17 that so?

18 A With regard to that, I should like to explain
19 as follows: When in my affidavit I spoke about the
20 difficulty of making any concentration of troops, I
21 was not making any comparison of numerical strength.
22 Speaking of the numerical strength only, in so far as
23 I can recall, even though the number of troops under
24 the command of the commanding general of the Kwantung
25 Army at that time was 60,000, it was under the circum-

1 stances at that time extremely difficult even to con-
2 centrate combat troops to the extent of even 5,000.

3 I have already set forth my reasons for so
4 stating in my affidavit, but in pursuance of the very
5 strong desire and fixed policy of the commanding general,
6 General MINAMI, the troops of the Kwantung Army were
7 disbursed in the north and central parts of Manchuria,
8 and in the light of the existing circumstances at that
9 time, a numerical strength of 5,000. which would be
10 approximately half a division, was a difficult thing
11 to concentrate quickly in one spot. That is what I
12 have set forth in my affidavit.

13 Q But not impossible, however, was it?

14 A Not impossible if a commanding general made
15 a very decisive decision and took unreasonable measures
16 to try to bring about such a concentration. Further-
17 more, the commanding general of the Kwantung Army could
18 not have done it unless he abandoned the policy which
19 he had set forth as the commanding general.

20 Q Who was in command of the North China garrison
21 during the year 1935?

22 A I think it was Lieutenant General UMEZU,
23 Yoshijiro. Towards about the end of the year I think
24 there was a change from General UMEZU to General TADA.

25 Q Prior to the time of the Ho-UMEZU agreement

1 you don't know what representations he made to the
2 Chinese authorities then, I take it?

3 MR. BROOKS: I ask the prosecutor to clarify
4 who "he" is. He has talked about two or three men,
5 and it could lead to confusion.

6 MR. WOOLWORTH: I was speaking of General
7 UMEZU.

8 A Yes, you may so understand, because I don't
9 know.

10 Q You have stated that General MINAMI
11 gave certain instructions to his men and officers,
12 particularly in respect to assistance to independent
13 Manchukuo?

14 A Yes.

15 Q And you are familiar with the fact, and I
16 believe you so stated, that General MINAMI was against
17 expansion in China?

18 A I couldn't quite get the meaning of that last
19 point regarding expansion in China.

20 THE INTERPRETER: Japanese court reporter.

21 (Whereupon, the Japanese court
22 reporter read.)

23 I can't quite get the meaning with regard to
24 the matter of non-expansion in China.

25 Q I mean by that he was against going beyond the

1 Great wall and gaining further territory in China. I
2 believe you so testified.

3 A Yes.

4 Q You are familiar with General MINAMI's career
5 from that time when he left command of the Kwantung
6 Army and became Governor-General of Korea?

7 A Yes, only in bare outline. I cannot speak
8 with any confidence, however. My reason for so stat-
9 ing is that after General MINAMI left his post as com-
10 manding general of the Kwantung Army and I was trans-
11 ferred as staff officer of the Kwantung Army to other
12 posts, General MINAMI and I lost contact, and the
13 various posts to which we were transferred had no rela-
14 tion one with the other, and therefore my knowledge of
15 General MINAMI's activities since that time have been
16 gained only through newspaper reports and such matters.
17 That is why I am unable to speak with any confidence
18 on his career.

19 MR. WOOLWORTH: In connection with the poli-
20 cies of General MINAMI regarding expansion, and so
21 forth. I desire to invite the Court's attention to ex-
22 hibit 2437.

23 No further cross-examination.

24 MR. BROOKS: May the witness be excused on
25 the usual terms?

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ACTING PRESIDENT: He is excused on the usual terms.

(Whereupon, the witness was excused.)

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ACTING PRESIDENT: He is excused on the usual
terms.

(Whereupon, the witness was excused.)

1 MR. BROOKS: Now, in relation to exhibit
2 2206-A, of which the witness speaks in his affidavit,
3 I wish to move the Tribunal to strike from the record
4 or to ignore this document, as it is merely a file of
5 United States newspaper clippings sent to the Foreign
6 Ministry by the Japanese Consuls from the United States.

7 I wish this application to be considered for
8 the following reasons: Upon examination we find that
9 John Goette and other correspondents named therein
10 have testified and this document would be repetitious
11 as to the parts testified to by these witnesses, who
12 were subject to cross-examination thereon.

13 The witness, in Exhibit 3434, in paragraph 3,
14 has said that many of these rumors, and so forth, were
15 false. Therefore, the source may be hearsay, rumors,
16 or may even be based on propaganda, and we say it is
17 not the best evidence available, and has no probative
18 value. There is no certificate regarding truth and
19 authenticity as to the contents of the documents therein.
20 We submit that these newspaper cuttings from the United
21 States are of no more value than the unsupported state-
22 ment of the prosecution and is not evidence in itself;
23 that Japanese newspaper articles have been rejected in
24 most instances although they had more color for
25 admission for several reasons, as the Court well knows.

1 The prosecution wants to be heard at this
2 time, too, your Honor.

3 MR. WOOLWORTH: If the Tribunal please, the
4 exhibit 2206-A was admitted in evidence before this
5 Tribunal at page 15,769 of the record, without
6 objection on the part of the defense. My recollection
7 is that there have been numerous references by several
8 of the witnesses to these articles and it seems to me
9 untimely, this objection, and it would appear to set
10 an evil precedent to go back over the record and remove
11 evidence already admitted.

12 MR. BROCKS: We submit that this document was
13 admitted on the usual terms and therefore our objections
14 would be automatic, and the proper way to reach it is
15 by motion to strike, after proper investigation. That
16 is the meaning of "admitted on the usual terms," in our
17 submission -- that it means that it may be stricken
18 later, if found not to be proper. Will the Tribunal
19 take it under advisement?
20

21 I shall go on--

22 ACTING PRESIDENT: This document has already
23 been admitted in evidence and it will be considered for
24 whatever probative value it may have. Any criticism
25 of it should be made at the time of your summation.

The motion is denied.

1 The prosecution wants to be heard at this
2 time, too, your Honor.

3 MR. WOOLWORTH: If the Tribunal please, the
4 exhibit 2206-A was admitted in evidence before this
5 Tribunal at page 15,769 of the record, without
6 objection on the part of the defense. My recollection
7 is that there have been numerous references by several
8 of the witnesses to these articles and it seems to me
9 untimely, this objection, and it would appear to set
10 an evil precedent to go back over the record and remove
11 evidence already admitted.

12 MR. BROCKS: We submit that this document was
13 admitted on the usual terms and therefore our objections
14 would be automatic, and the proper way to reach it is
15 by motion to strike, after proper investigation. That
16 is the meaning of "admitted on the usual terms," in our
17 submission -- that it means that it may be stricken
18 later, if found not to be proper. Will the Tribunal
19 take it under advisement?
20

21 I shall go on--

22 ACTING PRESIDENT: This document has already
23 been admitted in evidence and it will be considered for
24 whatever probative value it may have. Any criticism
25 of it should be made at the time of your summation.

 The motion is denied.

1 MR. BROOKS: I do not wish to reopen that
2 question, your Honor, but I would like to have an
3 understanding from the Tribunal, if they feel free
4 to give it to us, of what is meant, then, by the
5 statement "admitted on the usual terms," because I
6 thought we had that very clear on the record.

7 We will go to 28, Language Section.

8 At this time I present for identification
9 the Year Book of Japanese Diplomacy, 1943 Edition.

10 I now offer in evidence defense document 1785,
11 an excerpt from the aforesaid Year Book. This excerpt
12 presents very concisely various facts concerning the
13 international relations of Manchukuo prior to 1941
14 that affected MINAMI's action and were taken into
15 consideration by him. This evidence is offered to
16 substantiate MINAMI's testimony as to his bona fides
17 in acting as ambassador to Manchukuo (court record
18 pages 19,791 - 19,792.) Before his appointment as
19 ambassador in December 1934, the independence of Man-
20 chukuo was an established fact. During his tenure of
21 office and subsequent thereto a great increase was made
22 in the number of foreign countries which recognized
23 that state either de iure or de facto.

24 This evidence was part of the basis for MINAMI's
25 honest and sincere belief that it was proper to accept

1 this duty, entrusted by the Japanese Government, to
2 assist as an ambassador in the enhancement of Manchukuo's
3 status in the family of nations. It is submitted,
4 therefore, that the document is more material and
5 relevant to MINAMI's individual case than to the
6 general phase.

7 I wish only to read the exhibit from the
8 fifth line of page 2, commencing with the words "Of
9 the countries other than Japan" to the end.

10 MR. WOOLWORTH: If the Tribunal please,
11 document 1785 is not an official document, has no
12 standing as such, it was published in 1943 -- long
13 after the period under consideration, it is nothing but
14 propaganda in its rawest form. The prosecution objects
15 to the introduction of this offensive document. If
16 admissible at all, this document might possibly have
17 had a place in the general phase.

18 MR. BROOKS: I think that in my foreword--

19 MR. WOOLWORTH: If the Tribunal please, the
20 rule is, as I understand it, one argument.

21 MR. BROOKS: I haven't argued any yet, but I
22 was going to say that in my foreword to it I think I
23 have covered sufficiently the reasons for it, and now
24 leave it to the judgment of the Tribunal; and I might
25 further add that I think that the matters I intended

1 to read are of such a nature that this Court might even
2 take judicial knowledge of the fact that these countries
3 were represented, as set out therein.

4 ACTING PRESIDENT: I may say, as to your
5 introduction, that the Court feels it is unnecessarily
6 long.

7 As to the objection, the objection is sustained
8 by a majority vote.

9 MR. BROOKS: I hope the Court does consider
10 that I did not make an opening statement and there have
11 only been about two instances when I have felt it
12 necessary to explain the necessity for a document.

13 Now the defense would like to call ONO,
14 Rokuichiro as the next witness.

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1 R O K U I C H I R O O N O, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q State your name and address.

8 A My name is ONO, Rokuichiro. My present
9 address, No. 2831 Kichijoji.

10 MR. BROOKS: May defense document 1758 (revised)
11 be shown to the witness?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Is that your affidavit?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 I offer in evidence defense document 1758.

19 ACTING PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Defense document 1758
21 will receive exhibit No. 3435.

22 (Whereupon, the document above referred
23 to was marked defense exhibit No. 3435 and
24 received in evidence.)
25

MR. BROOKS: I shall read exhibit 3435 from

1 paragraph 2:

2 "2. On August 5, 1946, I was appointed to the
3 post of Director-General for Political Affairs of the
4 Government-General of Korea which I held until May 29,
5 1942. During my tenure of office, the Governor-General
6 of Korea was MINAMI, Jiro.

7 "3. The Governor-General of Korea was merely
8 a civilian and was not entitled to deal with military
9 affairs. Military affairs in Korea were within the
10 competence of the Commander of the Korean Army who was
11 directly under the control of the Emperor and did not
12 come under the jurisdiction of the Governor-General.

13 "4. Matters relating to prisoners of war was
14 under the jurisdiction of the Army, so while MINAMI
15 and I were in office, the Government-General never
16 concerned itself with such matters. According to
17 exhibit No. 1973 (dated March 1st, 1942), there are words
18 to the effect that the Government-General and the Army
19 were both strongly desirous of interning prisoners of
20 war in Korea, but there was no such case on the part
21 of the Government-General. As a matter of fact, all I
22 remember is that the Korean Army requested us to find
23 some accommodation for prisoners of war, if they were
24 brought to Korea. The Government-General had no con-
25 cern with the purpose why prisoners of war would be

1 brought to Korea. Soon after, in July 1942, MINAMI
2 and I resigned and both returned to Tokyo. Hence, I
3 do not know whether prisoners of war were interned in
4 Korea or how was the condition of their treatment."

4 You may cross-examine.

5 MR. WOOLWORTH: No cross-examination.

6 MR. BROOKS: May the witness be released on the
7 usual terms?

8 ACTING PRESIDENT: He will be released
9 accordingly.

10 (Whereupon, the witness was excused.)

11
12 MR. BROOKS: There will be no cross-examination
13 by the prosecution of the next witness so I will not
14 call MITARAI, Tatsuo but offer his affidavit in
15 evidence, defense document 2013.

16
17 ACTING PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 2013
19 will receive exhibit No. 3436.

20 (Whereupon, the document above re-
21 ferred to was marked defense exhibit No. 3436
22 and received in evidence.)

23 MR. BROOKS: I shall read exhibit 3436 from
24 paragraph 1:

25 "I, MITARAI, Tatsuo, being duly sworn in

1 accordance with the procedure followed in our country,
2 do hereby depose and say as follows:

3 "1. I was born in Oita prefecture in 1894.
4 My present address is at Shiota, Tokai-mura, Isumi-
5 Gun, Chiba prefecture. Since 1917 I have been connected
6 with various newspapers, specially as critic of Japanese
7 political circles. As I came from the same prefecture
8 as MINAMI, Jiro, I have known him intimately for 20
9 years. I was called into constant consultation with
10 him in early March, 1945, when he was asked to assume
11 the presidency of the Political Society of Great Japan
12 (usually called the Japan Political Society). After
13 his appointment as president, I became his secretary
14 and took part in important affairs of the Society.

15 "2. The creation of the Japan Political
16 Society was first of all promoted by a committee of
17 influential citizens at that time, such as KANEMITSU,
18 Tsunoo, YAMAZAKI, Tetsunosuke, OMA, Tadao, GODO, Taku
19 and others, who pressed upon MINAMI and myself the
20 urgent need of such creation to the following effect:

21 "Although the Imperial Rule Assistance
22 Association (I.R.A.A.) made its appearance advocating
23 a new political structure of national unity, its
24 character had been so frequently changed that after all
25 it became a more auxiliary administrative organ of the

1 government. The Imperial Rule Assistance Political
2 Association (I.R.A.P.A.), on the other hand, mainly
3 consisting of members of both Houses, was crippled as
4 a political party, because it ignored the means and
5 method of being in touch with the general public. Such
6 a situation, coupled with the unfavorable aspects of the
7 war, brought forth severe discontent and grave mis-
8 givings among citizens as well as political circles.
9 Hence, our immediate attention had to be given to the
10 creation of a political party which would truly act for
11 the people and be managed by the people.'

12 "As a matter of fact, this was the line of
13 policy which governed the activities of the Japan
14 Political Society after MINAMI accepted the presidency:

15 "3. The distinct features of the Japan
16 Political Society, as different from I.R.A.A. or
17 I.R.A.P.A. may be summarized as follows:

18 "(a) Either at the time of or after its
19 creation, the Society had no connection whatever with
20 the Government. As the Society did not cater to the
21 wishes of bureaucrats and militarists, it encountered
22 many obstacles and interferences from such quarters,
23 especially in the case of forming chapters in prefectures;

24 "(b) In accordance with policy above mentioned,
25 the Society put its main strength to the direct contact

1 with the people. Within 3 months after its birth,
2 chapters were established in 35 prefectures, members
3 whereof amounting to at least more than 500,000, al-
4 though definite figures cannot be given on account of
5 the destruction of records by air raids.

6 "(c) The Society never received a cent of
7 financial aid from the Government, all expenses being
8 defrayed by contributions of members. Furthermore,
9 contrary to the initial plan that the head office
10 should subsidize chapters, not only every one of them
11 dispensed with such proposition, but many, e.g., Ishikawa
12 and other prefectures, offered donations to the head
13 office.

14 "4. Under the circumstances above mentioned,
15 it may seem curious that a retired general should be
16 installed as president. However, the members of the
17 said committee who approached MINAMI with the offer of
18 presidency, thought that the purpose of creating the
19 Japan Political Society could be carried out only by
20 a person whose popularity and ability would enable him
21 to take an equal stand vis-a-vis the governmental and
22 military authorities, and MINAMI because of his past
23 record was thought to be the very man for such a post.
24 On the other hand, I knew very well his net theory that
25 no military man should participate in politics. and also

1 the fact that he declined the recommendation to the
2 presidency of I.R.A.P.A. in the previous year when
3 General ABE, Nobuyuki, retired therefrom. In the case
4 of the Japanese Political Society, however, the said
5 committee took every possible means to persuade MINAMI,
6 notwithstanding repeated refusals on his part and of
7 those close to him, including myself, and finally
8 succeeded in obtaining his agreement on the strength
9 of the good offices of SUZUKI, Kantaro, who was then
10 President of the Privy Council and his most intimate
11 friend. Thus, he was nominated President of the Japan
12 Political Society at its inauguration on March 30th,
13 1945.

14 "Four months later, on August 9th, MINAMI met
15 the aforesaid SUZUKI, then Premier, and advised him to
16 accept the terms of the Potsdam Declaration. Henceforth,
17 MINAMI and Society strived hard to unite public opinion
18 and, upon the surrender of Japan, he resigned and the
19 society dissolved itself."

20 The defense would like to call MURATA,
21 Yachiho as the last witness.
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1 Y A C H I H O M U R A T A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q State your name and address.

8 A My name is MURATA, Yachiho. My address:
9 No. 145 Kitazawa, 2-chome, Setagaya-ku, Tokyo.

10 MR. BROOKS: May defense document 1761 (revised)
11 be shown to the witness?

12 (Whereupon, a document was handed to
13 the witness.)

Q Is that your affidavit?

A Yes.

Q Are the contents thereof true and correct?

A Yes.

18 MR. BROOKS: I offer in evidence defense docu-
19 ment 1761.

ACTING PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 1761 will
22 receive exhibit No. 3437.

23 (Whereupon, the document above re-
24 ferred to was marked defense exhibit No. 3437
25 and received in evidence.)

1 MR. BROOKS: I shall read exhibit 3437 from
2 paragraph 1:

3 "1. I, MURATA, Yachiho, is the Chief of In-
4 vestigation Section of the Board of Decorations.

5 "2. Being shown the Record of Offices held
6 by MINAMI, Jiro (a document brought by counsel KONDO
7 and referred to as exhibit No. 117), I find at line 10,
8 page 6 of its English version the following words:

9 'Feb. 9 -- appointed Councillor (Zitaikan) (Cabinet)'.
10

11 By comparing with the Japanese original, the correspond-
12 ing Japanese word in parenthesis should be 'Gijokan,'
13 meaning that kind of councillor of the Board of Decor-
14 ations, as explained below.

15 "3. The duty of a Gijokan is to confer and
16 agree upon the propriety with regard to investiture
17 or divestiture of orders of merit, decorations and
18 pensions in accordance with the Regulations concerning
19 the Council of Decorations (Imperial Ordinance No. 117
20 of Oct. 31st, 1893). Please refer to my other deposi-
21 tion (exhibit No. 3147, Court Record page 28,029).

22 "The council is conducted under the supervision
23 of the President of the Board of Decorations, by circu-
24 lating a writing among the Councillors whenever a case
25 arises for investing or divesting orders of merit,
decorations and pensions. It is, therefore, outside

1 the scope of their duty to participate in political or
2 military affairs, and in fact they have nothing what-
3 soever to do with such affairs.

4 "4. This kind of councillor is appointed by
5 the Emperor, but entirely different from Naikau-Sangi
6 and Naikaku-Komon, the words which are usually trans-
7 lated in English as 'Cabinet Councillor'.

8 "Being shown a document referred to as IPS
9 document No. 0001 (brought by Counsel KONDO), I find
10 at page 21 the following words: 'On 9 February MINAMI
11 became a Cabinet Councillor,' and at page 331 the
12 following words: '(also Cabinet Councillor) (9 Feb.
13 1933-- 10 Dec. 1934)'. It seems to me that such
14 statements are mistaken, in view of the record of my
15 Board, which registers the fact that MINAMI served as
16 a Gijokan from February 9th, 1934, to the beginning
17 of 1936.

18
19 "5. The said IPS document No. 0001, at
20 page 331, describes MINAMI as having been 'decorated'
21 on April 29th, 1940, for services in China Affairs.
22 According to the record of my Board, no decoration was
23 awarded to him on that date, except a pair of silver
24 cups (small ones for sake)."

25 You may cross-examine.

MR. WOOLWORTH: No cross-examination.

1 MR. BROOKS: May the witness be released on
2 the usual terms?

3 ACTING PRESIDENT: He is excused accordingly.

4 (Whereupon, the witness was excused.)
5

6 MR. BROOKS: This will conclude the presenta-
7 tion of evidence for MINAMI for the time being. I
8 understand that the matters taken on commission the other
9 day will not be ready until tomorrow or later.

10 The next counsel will proceed.
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1 ACTING PRESIDENT: Mr. Cole.

2 MR. COLE: May it please the Tribunal, I
3 should like to outline briefly the evidence which will
4 be offered in the personal defense of the accused
5 MUTO, Akira.

6 In this outline I will treat the evidence
7 offered by the prosecution, to the contradiction and
8 disproof of which our own evidence will be directed,
9 in four general periods--

10 ACTING PRESIDENT: Is this your opening
11 statement?

12 MR. COLE: Yes, sir.

13 ACTING PRESIDENT: Wait until we get it dis-
14 tributed.

15 (Whereupon, the document was distributed.)

16 MR. COLE: May I proceed now, sir?

17 ACTING PRESIDENT: You may proceed.

18 MR. COLE: May it please the Tribunal, I
19 should like to outline briefly the evidence which will
20 be offered in the personal defense of the accused
21 MUTO, Akira.

22 In this outline I will treat the evidence
23 offered by the prosecution, to the contradiction and
24 disproof of which our own evidence will be directed,
25 in four general periods: (1) The accused's position

1 and activity during the China Incident; (2) His tenure
2 as Chief of the Military Affairs Bureau, toward which
3 most of the prosecution's evidence was directed; (3)
4 The period of time, covering the largest part of the
5 war, in which he was a Division Commander in Sumatra;
6 and (4) His service as Chief of Staff to General
7 YAMASHITA in the Philippines.

8 May I say at the outset that the accused MUTO
9 will take the stand in his own behalf, in a statement
10 which fully covers and denies such evidence as had
11 been offered against him.

12 As to the accused's activities and authority
13 during the whole period of the Manchurian and China
14 Incidents, evidence already in the record, to which
15 the Tribunal's attention is respectfully directed,
16 discloses that he held minor positions, he having been
17 an officer of the line-of-communications section of the
18 General Staff and later a section chief therein. The
19 only testimony to be offered regarding this period,
20 aside from the accused's own full comment, will be an
21 affidavit by British Major-General Piggott, who speaks
22 of MUTO as strictly a military man, and praises his
23 efforts in the settling of a difficult problem. Fur-
24 ther evidence, already in the record, shows that at
25 the time of the Nanking Incident he was merely a

1 Vice-Chief of Staff, completely without command respon-
2 sibility.

3 In the testimony to be offered relative to
4 the accused's tenure as Chief of the Military Affairs
5 Bureau we put the greatest emphasis. As to this
6 period the prosecution has relied most heavily upon
7 the testimony of TANAKA, Ryukichi, who testified that
8 General MUTO exercised tremendous power as head of
9 that bureau. However, we propose to show that that
10 statement is untrue; that the chiefs of all bureaus
11 were equal in power and authority, and that this ac-
12 cused was on the same basis as all other such chiefs.

13 TANAKA also testified that the Military Af-
14 fairs Bureau had a strong policy for concluding the
15 Tri-Partite Pact between Japan, Italy and Germany from
16 the time of the ABE Cabinet. We propose to prove that
17 this is untrue by a witness who at that time was chief
18 of a section in the Military Affairs Bureau. Further
19 statements by TANAKA asserted that this accused, at a
20 meeting of Bureau Chiefs before the outbreak of war,
21 read a draft entitled, "Principal reasons alleged for
22 the commencement of hostilities against the United
23 States of America and Britain", that he expressed also
24 his personal opinions, and that he said that the des-
25 patch of Ambassador KUKUSU and the Tatsuta-Maru was

1 nothing more than camouflage. We will offer testimony
2 to show that these statements are utterly false; and will
3 offer a witness who was present at the meeting in ques-
4 tion.

5 General MUTO will be shown to have had no
6 right whatsoever to decide important policy matters;
7 that he did not decide such matters; and that he acted
8 only as a staff member of the War Minister, carrying
9 out the duties which were assigned to him. In this
10 respect we will offer the affidavit of Colonel
11 NISHIURA who served in the Military Affairs Bureau
12 for a long period, and was an authority on the func-
13 tions and operation of that bureau, as well as being
14 well acquainted with the activities of this accused.

15 We respectfully call the Tribunal's attention
16 particularly to the evidence we offer with regard to
17 General MUTO's constant and whole-hearted efforts to-
18 ward a happy conclusion of the negotiations between the
19 United States and Japan. Those efforts were unceasing,
20 and so ardent that he was at one time in danger of being
21 assassinated by those vicious factions which opposed the
22 negotiations. Even TANAKA, Ryukichi, could not deny
23 that during this period the accused MUTO was given a
24 special guard of military police. We propose to show
25 that there was no improper motive on the part of the

1 accused in his attempt to get from the Navy a declara-
2 tion of an anti-war attitude on their part immediately
3 prior to the resignation of the Third KOKUYE Cabinet.
4 Far from being an improper motive it was exactly the
5 opposite; an attempt to get the backing needed by
6 the War Ministry to combat the attitude of the General
7 Staff. In this regard we will offer considerable tes-
8 timony to clarify General MUTO's hopes and labors for
9 a complete avoidance of war, including the affidavit
10 of Bishop James Edward Walsh of Maryknoll, who himself
11 took an active and ardent part in the efforts to bring
12 about a successful solution of the difficulties be-
13 tween the United States and Japan.

14 Nevertheless, in spite of the sincere efforts
15 of many persons, including this accused, for an avoid-
16 ance of war, war came. The prosecution appears to
17 contend that if the accused MUTO were really opposed
18 to war he could have and should have resigned; and
19 that his remaining in the post with the Military Af-
20 fairs Bureau is sufficient evidence of his agreement
21 to opening the war. This, we contend, is a position
22 which no professional military man in any country
23 could appreciate, and resignation was peculiarly and
24 traditionally impossible in the Japanese army. We pro-
25 pose to show that resignation was virtually impossible,

1 except in circumstances of incapacity. Further, as
2 has already been shown in the testimony of NODA, Kengo,
3 former chief of the Personnel Bureau of the War Min-
4 istry, and will be further clarified, General MUTO
5 tried to obtain a transfer from the Military Affairs
6 Bureau in the fall of 1941.

7 It is our contention that all the above mat-
8 ters constitute most illuminating proof of his sin-
9 cerity regarding the American-Japanese negotiations
10 which were then fast deteriorating. However, he was
11 not released from that post until a short time after war
12 broke out. Matters regarding resignation or transfer
13 will be clarified by a witness who was a member of the
14 Personnel Bureau of the War Ministry during the war
15 and now is chief of the Personnel Section of the First
16 Demobilization Bureau.

17 In a most important period, almost immediately
18 after the outbreak of war, the accused MUTO was or-
19 dered to make an inspection trip in the south. On
20 returning from this trip he was immediately advised of
21 his transfer to Sumatra as Commander of the Imperial
22 Guard Division. He thereupon started immediate pre-
23 parations for the change, without having time to deal
24 further with matters in the Military Affairs Bureau.
25 The Imperial Guard Division which he commanded in

1 Sumatra will be shown to have been the most exemplary
2 and well-disciplined in the Japanese Army, and no
3 trouble took place during his term as division com-
4 mander. The administration of prisoners of war and
5 civilian internees was outside the scope of his juris-
6 diction, as will be conclusively shown; nor did he ever
7 employ the labor of such persons. This will be made
8 abundantly clear through the testimony of the witness
9 OHIRA, who was General MUTO's chief of staff in Sumatra.

10 Immediately after the American attack on the
11 Philippine island of Leyte, this accused went to the
12 Philippines as chief of staff to General YAMASHITA.
13 This was in October 1944 and was his last military
14 assignment. The Army General Staff and the Southern
15 General Army decided to counter-attack the American
16 forces on Leyte at all costs. This change of plans
17 brought extreme difficulties to YAMASHITA in his pro-
18 posed defense of Luzon. Consequently, after having
19 been required to despatch large parts of his personnel
20 and material to Leyte, he was faced with the necessity
21 of opposing the triumphant and overwhelmingly superior
22 American forces on Luzon. General MUTO took every
23 possible step to assist YAMASHITA in the prevention of
24 improper incidents. The efforts then taken in this
25 direction are well illustrated by the decision on the

1 part of the Japanese army to quit the City of Manila,
2 which decision was made when it became clearly impos-
3 sible to make it an open city, as the result of care-
4 ful study. However, the American forces, far superior
5 in equipment, transport and fire-power, proceeded with
6 amazing speed, and cut the Japanese forces into small
7 segments. The Japanese forces were thus almost com-
8 pletely isolated from each other, and the command organ-
9 ization of YAMASHITA was destroyed. Proper command
10 became literally impossible.

11 The alleged atrocities were committed without
12 the slightest knowledge or approval of either YAMASHITA
13 or this accused by troops which were outside YAMASHITA's
14 power to command. MUTO was not in a position to suppress
15 them, although he did all that could be done. This
16 point has already been testified to by KOBAYASHI, Shu-
17 jiro, and other witnesses in the general phases. We
18 will offer in support of our contention another wit-
19 ness who was a member of the Japanese staff in the
20 Philippines. Moreover, testimony as to the chaotic
21 and impossible conditions at that time will be shown
22 from the Biennial Report of General Marshall. This
23 report shows conclusively that the accused MUTO could
24 not possibly have prevented the events in Manila.
25

We will present a few documents to clarify

1 points which are in dispute, particularly with regard
2 to the matter of resignation and transfer of Japanese
3 army officers. Lastly, the accused himself will
4 take the stand and cover fully the matters charged
5 against him.

6 Language Section, this next item is not
7 included in your material.

8 I should like to make a further brief state-
9 ment. Due to a misunderstanding within my own office,
10 and a consequent oversight, a certificate of non-
11 availability regarding certain documents referred to
12 in our general evidence was not prepared for timely
13 service. It has been prepared, however, and is now
14 in process of stenciling and distribution as defense
15 document 2860. Other such certificates have been
16 placed at the end of our order of proof.

17 I respectfully request the permission of the
18 Tribunal to add the certificate in question at the
19 end of our order of proof rather than placing it after
20 the reading of the first affidavit to which it has
21 reference.
22

23 I am prepared at this time to list the docu-
24 ments which this certificate covers. However, it might
25 be more practicable merely to refer to it at the time
of reading the affidavit to which it applies.

1 I understand, if the Tribunal please, that
2 there is no objection to this procedure from the prose-
3 cution.

4 ACTING PRESIDENT: Under those circumstances,
5 you may proceed as requested.

6 MR. COLE: Thank you, sir.

7 ACTING PRESIDENT: I think at this time we
8 will recess for fifteen minutes.

9 (Whereupon, at 1045, a recess was
10 taken until 1100, after which the proceed-
11 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Cole.

4 MR. COLE: I offer in evidence the sworn
5 deposition of Major General Piggott, defense document
6 No. 2533. Aside from the full statement of the ac-
7 cused, this is the only evidence to be offered re-
8 garding General MUTO's period in China. It describes
9 his efforts in settling difficulties in Shanghai and
10 Tientsin, from the personal observation of General
11 Piggott.

12 May I add, sir, that I agree to have the
13 last sentence of the affidavit stricken as being
14 character evidence.

15 MR. LOPEZ: If the Tribunal please --

16 ACTING PRESIDENT: Mr. Lopez.

17 MR. LOPEZ: The last clause of the last
18 sentence of the second paragraph, beginning with the
19 words, ". . . and was instrumental," is objected to
20 as being a conclusion of the witness. Likewise, the
21 last clause of the last sentence of the third para-
22 graph having reference to the London Times, beginning
23 with the words, ". . . and an account," is objected to
24 as offending the rule of the Court that if reference is
25 made to a document that the document itself be attached

to the affidavit.

1 ACTING PRESIDENT: Is that not the sentence
2 that the defense has agreed be withdrawn?

3 MR. LOPEZ: It is -- the sentence withdrawn
4 by the defense, your Honor, refers to the last
5 sentence; the last paragraph, too.

6 MR. COLE: As to the first objection,
7 your Honor, pertaining to the last half of the last
8 sentence in paragraph two, it is true that General
9 Piggott might very well have detailed at great length
10 those particular things which were done by General
11 MUTO.

12 ACTING PRESIDENT: By a majority vote the
13 objection is overruled.

14 CLEAK OF THE COURT: Defense document
15 2533 will receive exhibit No. 3438.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3438 and received in evidence.)

19 MR. COLE: I will read exhibit 3438, omitting
20 the last sentence.

21 "I, Major General Francis Steward Gilderoy
22 Piggott, C. B., D. S. O., Colonel Commandant, Royal
23 Engineers, of Rapaley, Ewhurst, in the County of
24 Surrey, England, having been first duly sworn, make
25

oath and say:

1 "I first met General MUTO (Akira) in Shang-
2 hai in 1938, where I had been sent from Tokyo at the
3 request of the British Ambassador to China and with
4 the concurrence of the British and Japanese Govern-
5 ments, to settle certain questions which had arisen
6 to the prejudice of good relations between the
7 British and Japanese authorities in Shanghai. He was
8 then serving on the staff of General HATA, the
9 Commander-in-Chief, and was instrumental, under
10 General HATA's orders, in effecting a noticeable
11 improvement in Anglo-Japanese relations in that area.
12

13 "Later, in the summer of 1939, he was head
14 of the Japanese Army Delegation from North China,
15 which came to Tokyo to take part in the conference
16 assembled to discuss, and settle if possible, the
17 Tientsin crisis. Although the military authorities
18 had been overruled as regards the site of the con-
19 ference -- they wished it to be held in Tientsin,
20 but the Prime Minister (Baron HIRANUMA) had insisted
21 on Tokyo -- they accepted the situation and did their
22 best to make the conference a success. General MUTO
23 frequently explained to me the army's point of view,
24 namely, that their business was with the security of
25 their troops, and that the economic questions at the

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2 hai in 1938, where I had been sent from Tokyo at the
3 request of the British Ambassador to China and with
4 the concurrence of the British and Japanese Govern-
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9 Commander-in-Chief, and was instrumental, under
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18 had been overruled as regards the site of the con-
19 ference -- they wished it to be held in Tientsin,
20 but the Prime Minister (Baron HIRANUMA) had insisted
21 on Tokyo -- they accepted the situation and did their
22 best to make the conference a success. General MUTO
23 frequently explained to me the army's point of view,
24 namely, that their business was with the security of
25 their troops, and that the economic questions at the

1 conference concerned this security; he was anxious
2 to get back to his military duties as soon as possible,
3 and for this reason desired to see a speedy and suc-
4 cessful outcome. I reported his attitude to the
5 British Ambassador, and an account of my farewell in-
6 terview with General MUTO, in which he expressed his
7 'good wishes for the success of the conference,'
8 appeared in the London Times about August 14, 1939."

9 The prosecution has offered a considerable
10 amount of evidence in regard to the Military Affairs
11 Bureau and the accused's duties and powers therein.
12 As was pointed out in our motion to dismiss, a great
13 part of this evidence was garbled and confused, and
14 we therefore propose to offer at this point testimony
15 which will render clear and complete the work of the
16 Military Affairs Bureau and its relationship to
17 Imperial General Headquarters.

18 I call the witness, NISHIURA, Susumu.
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1 S U S U M U N I S H I U R A, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

DIRECT EXAMINATION

BY MR. COLE:

7 Q Mr. Witness, will you state your name and
8 address?

9 A My name is NISHIURA, Susumu; my address,
10 560, One, One-cho, Nishitama-gun, Tokyo.

11 MR. COLE: I ask that the witness be shown
12 defense document 2678.

13 (Whereupon, a document was handed
14 to the witness.)

15 Q Mr. Witness, is that your affidavit signed
16 and sworn to by you?

17 A Yes.

18 Q And are all the matters stated therein true
19 and correct, to the best of your knowledge and belief?

20 A Yes.

21 MR. COLE: If the Court please, I offer in
22 evidence defense document 2678.

23 ACTING PRESIDENT: Mr. Lopez.

24 MR. LOPEZ: If the Tribunal please, objection
25 to the admission of this affidavit on the ground that

1 S U S U M U N I S H I U R A, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

DIRECT EXAMINATION

BY MR. COLE:

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12 defense document 2678.

13 (Whereupon, a document was handed
14 to the witness.)

15 Q Mr. Witness, is that your affidavit signed
16 and sworn to by you?

17 A Yes.

18 Q And are all the matters stated therein true
19 and correct, to the best of your knowledge and belief?

20 A Yes.

21 MR. COLE: If the Court please, I offer in
22 evidence defense document 2678.

23 ACTING PRESIDENT: Mr. Lopez.

24 MR. LOPEZ: If the Tribunal please, objection
25 to the admission of this affidavit on the ground that

1 the best evidence on the duties, authority, and
2 functions of the Director of the Military Affairs
3 Bureau are the laws and regulations themselves. In
4 the whole affidavit there is not one single reference
5 made, specifically made to the defendant MUTO, but
6 only to the office of the Military Affairs Bureau of
7 the War Ministry. The defendant KOISO, like MUTO,
8 also held the office of Chief of the Military Affairs
9 Bureau. Hence we urge that this evidence should have
10 been presented in the general phase.

11 ACTING PRESIDENT: Mr. Cole.

12 MR. COLE: If the Tribunal please, as to
13 the fact, or the statement rather that this affidavit
14 does not include the best evidence, that is a position
15 certainly contrary and opposite to the position which
16 the prosecution took in discussing the same matter.
17 The prosecution presented a good deal of evidence
18 by live witnesses as to the operations of the Military
19 Affairs Bureau. That testimony left the real func-
20 tions, the real operation of the Military Affairs
21 Bureau in a confused state. We propose by the use of
22 this affidavit to clear up that confusion.

23 As for the objection that there is no
24 reference to the accused MUTO, we contend that that
25 does not invalidate the affidavit. Our only point in

1
2 this affidavit is to render more clear the actual
3 operation rather than the strict rules and regula-
4 tions of the Military Affairs Bureau.

5 ACTING PRESIDENT: By a majority the objec-
6 tion is overruled and the affidavit admitted.

7 CLERK OF THE COURT: Defense document 2678
8 will receive exhibit No. 3439.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 3439 and received in evidence.)
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NISHIURA

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1 MR. COLE: I will read exhibit 3439, omitting
the introduction.

2 "I was a colonel at the termination of the
3 war; I was graduated from the Military College in
4 1930, was in the service of the Military Administration
5 Section of the Military Affairs Bureau of the War
6 Ministry almost continuously, except for about three
7 years, from October, 1931, immediately after the out-
8 break of the Manchurian Incident, to December, 1944,
9 shortly before the termination of the Pacific War and
10 worked as the Officer-in-Charge of Estimate and Orga-
11 nization Affairs, Senior Section Adjutant and chief
12 of the section. While I was in the service I was
13 engaged in the study of revisions of the War Ministry
14 organization. Thus I am one of those most conversant
15 with the system and organization of the army, and in
16 the practical operational aspects of the War Ministry
17 organization.
18

19 "The duties and authorized limits of authority
20 of the Military Affairs Bureau and its director will
21 be described. During my tenure, no director ever
22 deviated from the authorized limits of that position.

23 "I. The duties and authority of the Director
24 of the Military Affairs Bureau. - - -

25 "The main subdivisions of the Military Affairs

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24 of the Military Affairs Bureau. - - -

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NISHIURA

DIRECT

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1 Bureau were the Military Administration Section and the
2 Military Affairs Section. In addition, there was
3 the Press Section of the War Ministry. Originally
4 there were six bureaus in the War Ministry: Personnel
5 Affairs, Military Affairs, Ordnance, Intendance, Medical
6 Affairs, and Judicial Affairs. In 1926 the Equipment
7 Bureau was established, and it took care of personnel
8 and material mobilization.

9 "In 1936 the Military Service Bureau was
10 established and made a separate bureau. Only the busi-
11 ness formerly handled by the Military Administration
12 Section remained under the charge of the Military Affairs
13 Bureau, and was divided into the Military Administration
14 Section and the Military Affairs Section; the other
15 matters were transferred to the Military Service Bureau.
16 Such matters included morale and discipline, M.P.
17 duties, anti-aircraft defense, counter-espionage,
18 military drill, etc. These matters were entirely apart
19 from the Military Affairs Bureau from that time on.
20

21 "In 1937 also the Intelligence Division of
22 the War Ministry became one body with the Information
23 Section of the Imperial Headquarters and was there-
24 after under the Supreme Command. Further, as the
25 Bureau of Intelligence of the cabinet was strengthened,
it took over most of the remaining matters that had

1 formerly been announced by the War Ministry; thus the
2 information matters announced through the War Ministry
3 became very few.

4 "Through these changes the scope of activities
5 of the Military Affairs Bureau became smaller and
6 smaller. Prior to this time it had been customary to
7 ask the opinion of the Director of the Military Affairs
8 Bureau on some personnel matters, but after TOJO became
9 War Minister this practice was discontinued, and per-
10 sonnel matters were conducted without participation
11 of the Military Affairs Bureau Director.

12 "Under the general rule of the Imperial Ordinance
13 relating to general rules concerning the organization
14 of the ministries, Article 18, the Director
15 of the Military Affairs Bureau was the same in authority
16 as all other directors of bureaus. Such directors
17 were not authorized generally to decide principal mat-
18 ters on their own opinion exclusively, but rather their
19 duty was to administer under the direction of the
20 minister; and all were in equal conditions, with equal
21 responsibility. It is completely wrong to say that
22 the Director of the Military Affairs Bureau had any
23 special authority as compared to other directors.

24 "Next I shall make an explanation of the word
25 'rentai,' a word especially used in the system of the

1 Japanese Army. The verb 'rentai-suru' or 'to give
2 rentai' means only approving a decision by a competent
3 bureau by affixing one's seal on the understanding
4 that one has no objection as far as matters within
5 the jurisdiction of his bureau or section are concerned.
6 It does not mean that one who gave 'rentai' to a cer-
7 tain plan took so-called joint responsibility for all
8 the contents of the plan in question beyond his authority
9 as defined in the official organization.

10 "The War Minister and Vice-Minister asked
11 the opinion of each director on pertinent matters, and
12 no more importance was attached to the opinion of the
13 Director of the Military Affairs Bureau than to that
14 of other directors. It was not at all rare that the
15 opinion of that director was disregarded and the opi-
16 nions of other directors adopted. It was a rule of
17 the Japanese Army that, once a superior decided a mat-
18 ter, his subordinates must be absolutely obedient to
19 his decision. As to this point, there was an insistence
20 in this court that 'One, though he may be a soldier,
21 can and should demand release from office, if he dis-
22 agrees with the orders of his superior.' But this
23 was such a matter as could never be approved in the
24 system and organization of the former Japanese Army.

25 "II. Relation between the War Ministry,

1 Japanese Army. The verb 'rentai-suru' or 'to give
2 rentai' means only approving a decision by a competent
3 bureau by affixing one's seal on the understanding
4 that one has no objection as far as matters within
5 the jurisdiction of his bureau or section are concerned.
6 It does not mean that one who gave 'rentai' to a cer-
7 tain plan took so-called joint responsibility for all
8 the contents of the plan in question beyond his authority
9 as defined in the official organization.

10 "The War Minister and Vice-Minister asked
11 the opinion of each director on pertinent matters, and
12 no more importance was attached to the opinion of the
13 Director of the Military Affairs Bureau than to that
14 of other directors. It was not at all rare that the
15 opinion of that director was disregarded and the opi-
16 nions of other directors adopted. It was a rule of
17 the Japanese Army that, once a superior decided a mat-
18 ter, his subordinates must be absolutely obedient to
19 his decision. As to this point, there was an insistence
20 in this court that 'One, though he may be a soldier,
21 can and should demand release from office, if he dis-
22 agrees with the orders of his superior.' But this
23 was such a matter as could never be approved in the
24 system and organization of the former Japanese Army.

25 "II. Relation between the War Ministry,

1 especially the Military Affairs Bureau and the Army
2 General Staff Office. - - -

3 "The War Minister, Chief of the General Staff,
4 and Inspector-General of Education took over portions
5 of the central business upon themselves. Each bureau
6 of the War Ministry took over a share of the matters
7 which were under the supervision and control of the
8 War Minister. Thus the matters under any one bureau
9 were strictly limited, and in no case could extend
10 beyond the authority of the War Minister. For example,
11 although 'organization' was mentioned as one of the
12 functions of the Military Administration Section, it
13 did not mean that army organization could be decided by
14 that section alone. In reality, the right to draft
15 organization plans for the army originally belonged
16 to the General Staff, and the General Staff actually
17 had an office which took care of that matter. As a
18 matter of practice, the General Staff actually made
19 plans regarding organization, and merely asked for the
20 War Minister's counsel.

21 "Most matters mentioned as the responsibility
22 of the War Ministry arose from demands made by the
23 Chief of the General Staff, most of which naturally
24 arose from considerations of national defense. During
25 the course of the China Incident, and later during the

1 Pacific War, these demands were varied and more numerous,
2 They included requests from the General Staff on the
3 War Minister, on current problems from the standpoint
4 of home affairs or foreign relations.

5 "Such requests were first received by the
6 Military Affairs Bureau and transmitted to the proper
7 bureau for consideration, and afterwards reply was made
8 by order of the War Minister. There were some matters
9 which did not go through the Military Affairs Bureau
10 at all.

11 "There were frequent disagreements between
12 the War Ministry and the General Staff, and often it
13 was necessary to repeat the consultations and negotia-
14 tions. Also, there were a large number of demands from
15 the General Staff which concerned ministries other
16 than the War Ministry; in these matters the War Ministry
17 negotiated with the ministries concerned. For example,
18 as for estimates, it negotiated with the Finance Ministry
19 through the Intendance Bureau; for materials, with the
20 Planning Board or the Munitions Ministry through the
21 Equipment Bureau; as for foreign affairs, with the
22 Foreign Ministry through the Military Affairs Bureau.

23 "The War Minister had a sort of double charac-
24 ter; as a minister of state he was compelled to an
25 awareness of political and diplomatic activity, and as

1 Pacific War, these demands were varied and more numerous,
2 They included requests from the General Staff on the
3 War Minister, on current problems from the standpoint
4 of home affairs or foreign relations.

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6 Military Affairs Bureau and transmitted to the proper
7 bureau for consideration, and afterwards reply was made
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12 the War Ministry and the General Staff, and often it
13 was necessary to repeat the consultations and negotia-
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15 the General Staff which concerned ministries other
16 than the War Ministry; in these matters the War Ministry
17 negotiated with the ministries concerned. For example,
18 as for estimates, it negotiated with the Finance Ministry
19 through the Intendance Bureau; for materials, with the
20 Planning Board or the Munitions Ministry through the
21 Equipment Bureau; as for foreign affairs, with the
22 Foreign Ministry through the Military Affairs Bureau.

23 "The War Minister had a sort of double charac-
24 ter; as a minister of state he was compelled to an
25 awareness of political and diplomatic activity, and as

1 an official highly concerned with army matters ne had
2 also to be completely a soldier. But since the Chief
3 of the General Staff had the highest responsibility
4 as far as the army was concerned, it was his highest
5 duty to give consideration to winning victory in war
6 time. Thus there was often sharp conflict between the
7 Chief of the General Staff and the War Minister. It
8 was the duty of the Chief of the Military Affairs Bureau
9 to negotiate with the General Staff Office in such dis-
10 putes and also to represent the General Staff in dealing
11 with other agencies, in some matters.

12 "It was a fact that many officers in the War
13 Ministry also held concurrent offices in connection
14 with the Imperial General Headquarters; for example,
15 the Directors of Ordnance, Intendance, and Medical Bu-
16 reaus. It was also decided that the War Minister, with
17 some of his subordinates, should participate in the
18 conferences of the Imperial General Headquarters as
19 occasion demanded. But in reality there was no change
20 in the true relationship between these two units. The
21 Directors of the Military Affairs Bureau and the
22 Personnel Affairs Bureau, who did not held concurrent
23 posts with the Imperial General Headquarters, were
24 simply ordered to be 'attendants' of the War Minister
25 at the conferences. Most officials confined themselves

1 to the work in their own offices in the War Ministry,
2 and attended conferences at Imperial General Head-
3 quarters only in urgent circumstances. Though the
4 Director of the Military Affairs Bureau, as well as
5 the Vice-Minister and Director of the Personnel Affairs
6 Bureau, were attendants' of the War Minister, he did
7 not participate in such conferences in any degree,
8 but merely made preliminary arrangements for the War
9 Minister and attended to detail work after such con-
10 ferences as the War Minister attended. With regard
11 to operation attendants such as the Director of the
12 Military Affairs Bureau were given only such information,
13 by staff officers of Imperial General Headquarters,
14 as applied to their own particular offices in the War
15 Ministry.
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"III. Matters under the Military Affairs
Bureau.

"Under the Military Administration Section were matters concerning the main lines of national defense. It had no power to decide main policies of national defense, but rather to harmonize and coordinate the matters handled by the various bureaus and sections. When consultation between the bureaus and sections involved resulted in disagreement, the Military Administration Section had no power to settle the dispute, but merely to arbitrate and give counsel. Matters of national defense and tactics were the exclusive concern of the Chiefs of the Army and Navy General Staffs; this was also true in other routine affairs. If plans involved appropriations and material, consultation was had with the War and Navy Ministers. In case of an agreed plan, each bureau went about its own particular business.

"One of the matters placed under the charge of the Military Affairs Section was 'matters concerning the national defense policy in general.' This might be understood to mean that that bureau had authority to make a final decision on matters of national defense policy, but the exact contrary is the case. As previously stated, each bureau

1 transacted its business in accordance with policies
2 fixed by the Chief of the General Staff and the War
3 Minister. This business often involved matters which
4 were originally under offices other than the War
5 Ministry, such as mobilization of material and
6 national health. If such matters were taken up
7 independently with the various bureaus concerned,
8 confusion would result, and it was thus necessary
9 to have some one office to co-ordinate all activities.
10 The above mentioned business of the Military Affairs
11 Section meant this co-ordinating function.

12 "The Military Administration Section had
13 certain duties in connection with budget matters.
14 It was the duty of the Paymaster's Section of the
15 Intendance Bureau to collect data on the require-
16 ments of the various bureaus and sections in order
17 to formulate an overall budget for the War Ministry,
18 and thereafter to apportion such sums as had been
19 allowed. The duty of the Military Administration
20 Section in relation to the budget was this: to do
21 its best to adjust the organization and application
22 of budget business of other bureaus and sections to
23 the requirements of national defense as set by the
24 General Staff.
25

"Failure to handle the appropriation

1 properly within the War Ministry often resulted in
2 failure to meet the demands of the General Staff.
3 The Military Administration Section, however, could
4 never intentionally interrupt a plan of the General
5 Staff, which was thoroughly familiar with the amount
6 of appropriations and the outline of their distri-
7 bution. In such case, the decisive power was in
8 the War Minister, needless to say never in the Chief
9 of the Military Affairs Bureau. To my knowledge,
10 this was strictly true.

11 "IV. Regarding additional posts held by
12 the Chief of the Military Affairs Bureau.

13 "The Chief of the Military Affairs Bureau
14 automatically held other posts, ex officio. One
15 such post was Chief Secretary of the Supreme War
16 Council. His only duties were secretarial in
17 nature: he notified the councillors of the date
18 and place of meeting, distributed necessary papers
19 before the meeting, and, since he had no voice in
20 the discussions nor right to vote, his work was
21 nothing more than keeping the minutes.

22 "Another such concurrent duty was to act
23 as secretary of the joint Imperial GHQ Government
24 Liaison Conferences. It was agreed that the Chiefs
25 of the Military Affairs Bureau in the War and Navy

1 Ministries and the Secretary of the Cabinet should
2 act as secretaries. The only duty of the secretaries
3 was to distribute the necessary papers before such
4 a conference and to deal with documents acted upon;
5 none of the three had any right to participate in
6 any way in the discussions of the conference. The
7 same situation existed in the case of conferences
8 before the Throne.

9 "The Chief of the Military Affairs Bureau
10 also held certain posts such as member of various
11 committees of the Cabinet, or other ministries,
12 but this was true of all Bureau Chiefs of all
13 ministries and was done for the purpose of bringing
14 all ministries into close co-ordination. Resolutions
15 of such committees were not binding in any way on
16 the ministry involved, and, as a matter of practice,
17 those named to the committees were rarely present,
18 being most often represented by a proxy.

19 "With regard to the Privy Council, there
20 was no direct connection with the Council and the
21 Military Affairs Bureau. When the War Minister him-
22 self was required to attend, the Chief of the Mili-
23 tary Affairs Bureau or one of his subordinates
24 attended for the sole purpose of explaining, if
25 called upon, specific and technical details of matters

1 within the scope of his bureau.

2 "With regard to attending some sessions of
3 the Diet, there were usually representatives from
4 all ministries concerned in matters to be discussed.
5 Not only the Parliamentary Vice-Minister and
6 Councillor, but also the Vice-Minister, Chief of
7 Military Affairs Bureau, Chief of the Account and
8 Supply Bureau and sometimes chiefs of other bureaus
9 were appointed 'commissioners' and charged with the
10 duty of explaining or answering questions about the
11 matters before the Diet. Such duties were in no
12 way 'policy-making.'"

13 You may cross-examine.

14 I made an error, if your Honor please.
15 Mr. Freeman has some further direct questions.

16 MR. FREEMAN: If the Tribunal please.

17 ACTING PRESIDENT: Mr. Freeman.

18 DIRECT EXAMINATION (Continued)

19 BY MR. FREEMAN:

20 Q Colonel, you state in your affidavit that
21 you were a member of the Administrative Section of
22 the Military Affairs Bureau continuously, with the
23 exception of three years, from October, 1931, to
24 December, 1944. Is that true?

25 A Yes.

1 ACTING PRESIDENT: Before you go further,
2 Mr. Freeman, will you state on behalf of which
3 accused you are examining?

4 MR. FREEMAN: General SATO.

5 Q Colonel, General TANAKA, Ryukichi, testified,
6 record page 14,287, that protests received from the
7 Allied Powers by the Foreign Office relative to the
8 treatment of prisoners of war were routed directly
9 to the Military Affairs Bureau. Did your section
10 ever receive any such protests?

11 A No, such matters were not handled in my
12 section.

13 Q This same TANAKA also testified that the
14 Military Affairs Bureau prepared all replies to
15 such protests. Did you or your section ever pre-
16 pare a reply to any such protests?

17 A No.

18 Q This same TANAKA also testified, record
19 page 29,051, that there were some junior officers
20 within the Military Administration Section of the
21 Military Affairs Bureau who held extreme views
22 relative to the execution of the Doolittle fliers.
23 Do you recall any members of your section who
24 wished the execution of any or all of the Doolittle
25 fliers?

1 A There were none.

2 Q When asked by the prosecution to name
3 subordinates within the War Ministry who favored
4 the execution of the Doolittle fliers, General
5 TANAKA named a Colonel OTSUKI of the Military
6 Administration Section of the Military Affairs
7 Bureau who, he said, came to him several times
8 urging severe punishment of the Doolittle fliers.
9 Was there any such colonel by the name of OTSUKI
10 in your section during the entire year of 1942?

11 A There was no officer by the name of OTSUKI
12 in my section during the year 1942. An officer by
13 the name of OTSUKI, Akira, at one time in the past
14 served in the Military Administration Section. How-
15 ever, just prior to the outbreak of the Pacific War
16 this person, OTSUKI, Akira, was transferred as a
17 staff officer to a post outside of Japan, and I do
18 not think he served at any time during the course
19 of the Pacific War in any post in Japan.

20 Q Do you know where he was transferred to?

21 A I think it was in Saigon.

22 Q Colonel, on page 3 of your affidavit, you
23 state that many officers in the War Ministry held
24 concurrent offices in connection with Imperial
25 General Headquarters. Specifically, you state that

1 Directors of the Military Affairs Bureau and of the
2 Personnel Affairs Bureau attended the Imperial
3 Conferences only as attendants of the War Minister
4 and did not participate in such conferences to any
5 degree but to make preliminary arrangements for
6 the War Minister. Do you mean to state that the
7 attendants had no voice in decisions reached at
8 Imperial Headquarters?

9 A Yes.

10 Q Then, actually the Director of the Military
11 Affairs Bureau and the Director of the Personnel
12 Affairs Bureau attended only in an advisory
13 capacity to the War Minister?

14 A Yes, that is so.

15 Q Do you know where policies and regulations
16 were written relative to the treatment of prisoners
17 of war, what bureau or section?

18 A By the Prisoner of War Administration
19 Bureau. That is where they were drafted.
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1 MR. FREEMAN: If the Tribunal please, that
2 is all the questions I have to ask, but I would
3 like to direct the Tribunal's attention to page
4 16,966 of the record and I wish to read a conclusion
5 drawn by the prosecution.

6 ACTING PRESIDENT: I don't think that is
7 proper at this time. You can do it in summation.

8 MR. FREEMAN: I direct the Tribunal's
9 attention to that section.

10 MR. LOPEZ: If the Tribunal please.

11 ACTING PRESIDENT: Mr. Lopez.

12 CROSS-EXAMINATION

13 BY MR. LOPEZ:

14 Q With reference to paragraph 4 of your
15 affidavit on the last page: Throughout your long
16 connection with the Military Affairs Bureau, did you
17 ever attend a meeting of the Supreme War Council?

18 A No.

19 Q Did you ever attend a meeting of the Privy
20 Council?

21 A Not at the conference.

22 Q Where did you attend then?

23 A To a meeting of the Chief Secretary of the
24 Privy Council for the purpose of explaining matters
25 on the agenda.

1. Q How about any meeting of the Imperial
2 General Headquarters; were you able to attend
3 one of them?

4 A No.

5 Q Do you know where the meetings of the
6 Imperial General Headquarters were being held?

7 A The meetings or conferences of the Imperial
8 General Headquarters were held at times within the
9 Imperial Palace and at times at the General Staff
10 Headquarters, but I do not know all the locations --
11 the location of all of these meetings.

12 Q How about the place of the meeting of the
13 Privy Council; do you happen to know that?

14 A Yes.

15 Q Where?

16 A Within the Imperial Palace.

17 Q How about the meetings of the Supreme War
18 Council; where were they held?

19 A In the Imperial Palace.

20 Q What room?

21 A I do not know the name of the room, but I
22 know the room in which the conferences were held.

23 Q Have you been in that room?

24 A Yes, when the conference was not in session.

25 Q Have you ever attended any meeting of the

liaison conferences?

1 A No.

2 Q Do you know where the meetings were being
3 held?

4 A Yes.

5 Q Where?

6 A In most cases, a certain room in the Imperial
7 Palace.

8 MR. LOPEZ: That is all for the cross-
9 examination, your Honor.

10 MR. COLE: Mr. President, I refer now to
11 exhibit 2243-A.

12 ACTING PRESIDENT: Mr. Cole, what do you
13 want to do with this witness?

14 MR. COLE: I beg your pardon. May the witness
15 be excused on the usual terms?

16 ACTING PRESIDENT: He is excused accordingly.

17 (Whereupon, the witness was excused.)
18

19 - - -
20 MR. COLE: I refer now to exhibit 2243-A.

21 This exhibit was an article from the Japan Times and
22 Mail and purported to describe a speech made by this
23 accused in a Diet committee meeting.

24 We propose to offer the minutes of that
25 meeting only so far as they set out the accused's

liaison conferences?

1 A No.

2 Q Do you know where the meetings were being
3 held?

4 A Yes.

5 Q Where?

6 A In most cases, a certain room in the Imperial
7 Palace.

8 MR. LOPEZ: That is all for the cross-
9 examination, your Honor.

10 MR. COLE: Mr. President, I refer now to
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12 ACTING PRESIDENT: Mr. Cole, what do you
13 want to do with this witness?

14 MR. COLE: I beg your pardon. May the witness
15 be excused on the usual terms?

16 ACTING PRESIDENT: He is excused accordingly.

17 (Whereupon, the witness was excused.)
18

19 - - -

20 MR. COLE: I refer now to exhibit 2243-A.
21 This exhibit was an article from the Japan Times and
22 Mail and purported to describe a speech made by this
23 accused in a Diet committee meeting.

24 We propose to offer the minutes of that
25 meeting only so far as they set out the accused's

1 actual remarks, without the headlines and editorial
2 interpretations found in the prosecution exhibit.

3 I offer in evidence defense document 2734.

4 MR. LOPEZ: If the Tribunal please, we have
5 no objection. On the contrary, we welcome it.

6 ACTING PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 2734
8 will receive exhibit No. 3440.

9 (Whereupon, the document above re-
10 ferred to was marked defense exhibit No. 3440
11 and received in evidence.)

12 MR. COLE: I omit the heading, except for
13 the date:

14 "Tuesday session, March 19, 1940 at 1:39 p.m.

15 "Government Committeeman MUTO:

16 "I hereby express my heartfelt support towards
17 the opinion of Committeeman HAMAJI. Thus, I believe,
18 my answer has already reached its conclusion, but
19 inasmuch as I am given this opportunity to express
20 my opinion, I would like to express a part of what I
21 have been impressed with for some time. It is the
22 attitude of mind for us Japanese to take in surmounting
23 this emergency with which we are confronted. I am
24 of the opinion that we must, by all means, have the
25 spirit of leadership commonly needed for attaining

1 its purpose. It is, as already stated by War
2 Minister TERAUCHI in the Diet, essential to oust
3 individualism and all liberalism originating from
4 the former which will attach too much importance
5 to personal interests to cope with the present
6 international situation. Looking over the present
7 international situation, all the nations, irregardless
8 of which one, are proceeding to attach importance to
9 a national standard. Even observing economic relations,
10 they are all carrying on economic transactions with
11 one another with the nation as the unit. That
12 furthermore this has progressed to a 'bloc' economy.
13 Each one of them has come to think of attaching
14 importance to the nation as a unit in competition,
15 rather than personal gains in an economic race in
16 ordinary times.

18 "I am firmly convinced that it is an inevitably
19 impossible matter to unite and give full swing to all
20 the strengths of Japan at this time of emergency when
21 Japan must raise all her strength to see through the
22 emergency with which she is confronted, so long as
23 greater importance is attached to personal interests.
24 In this connection, they speak of a matter called
25 totalitarianism in foreign countries. War Minister
TERAUCHI once stated that we must depend thoroughly

1 on totalitarianism, attaching importance to
2 patriotism. I do not know what this is properly
3 called, as I am not a scholar, but I wonder if the
4 word 'kokutaishugi' or principle of Japanese National
5 Constitution or National Polity would not be
6 satisfactory for this.

7 "It is my firm conviction that if everyone
8 of us would unite, all based on the nation more than
9 on the individual, the total strength of the nation
10 will be unified of itself, to give it full swing.
11 In this sense, as you previously pointed out, should
12 the political parties be neglectful of national
13 affairs, clinging to their own interests or maneuvers,
14 this absolutely would not be allowable. The same is
15 true of government officials. If they should swing
16 to self-complacency, as you have pointed out, they
17 should reflect on themselves and reform such undesirable
18 convention without wasting a minute. Again, as for
19 the army, in other words, armed forces, should there
20 be any points that should be criticised for our being
21 high-handed, it should be amended immediately also.

22 "I firmly believe that the attitude to see
23 the nation over these extraordinary times is for us
24 to fully realize a sense of nationalism and to act
25 in concert with one another. In other words, if the

1 political parties, the government officials, the
2 military authorities and all the others would
3 reflect on themselves and amend what should be amended,
4 and closely co-operate with one another, fully realizing
5 the sense of national polity, I am rather hopeful
6 of the future and believe that the current emergency
7 will unmistakably be seen through. You asked me of
8 my opinion about the political parties. If there
9 should still be any political parties clinging to
10 their own interests or maneuvers, they ought to
11 immediately reflect on themselves. In the event
12 that they refuse to reflect on themselves, I believe
13 legal measures should be taken so as to have them
14 dissolved in these emergency times. You mentioned
15 that for close co-operation of the army, government
16 officials, and political parties, the military
17 authorities are too powerful. What you have said
18 can be interpreted in various ways, but it cannot
19 be said that the military is too strong for fighting
20 with a foreign enemy, no matter how strong they may
21 be. From what you said previously, you probably had
22 in mind that the army is too high-handed in the matter
23 of uniting and co-operating -- that it is out of the
24 question to act in close concert with them. In this
25 connection, I believe as follows: There is much

1 discussion that the military interfere in politics,
2 but perfect understanding must be reached by both
3 the military and the politicians for the purpose of
4 bringing this war to a successful conclusion. In
5 the case of an individual who is a general and a
6 politician at the same time, things would be in
7 agreement; but under the present national structure
8 the politicians take charge of politics and the
9 generals lead the military forces, and are quite
10 separate. If the politicians should fully understand
11 the military forces in every respect, the latter would
12 be able to devote itself to its own affairs and feel
13 at ease.

14 "This is, as a matter of fact, however,
15 impossible; so for the military to say we would like
16 to have this done, that done in order to see the
17 successful prosecution of the war is only a natural
18 thing. I am firmly convinced that if you would read
19 but one page of the science of war you would be in
20 complete agreement with me, and not ask further
21 questions. Particularly in the case of modern war,
22 where we are forced to concentrate all-out national
23 energy. We, on the part of the army, hold a keen
24 interest on even a trifling matter such as the shortage
25 of one grain of rice or the sabotage of a single

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2 but perfect understanding must be reached by both
3 the military and the politicians for the purpose of
4 bringing this war to a successful conclusion. In
5 the case of an individual who is a general and a
6 politician at the same time, things would be in
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8 the politicians take charge of politics and the
9 generals lead the military forces, and are quite
10 separate. If the politicians should fully understand
11 the military forces in every respect, the latter would
12 be able to devote itself to its own affairs and feel
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15 impossible; so for the military to say we would like
16 to have this done, that done in order to see the
17 successful prosecution of the war is only a natural
18 thing. I am firmly convinced that if you would read
19 but one page of the science of war you would be in
20 complete agreement with me, and not ask further
21 questions. Particularly in the case of modern war,
22 where we are forced to concentrate all-out national
23 energy. We, on the part of the army, hold a keen
24 interest on even a trifling matter such as the shortage
25 of one grain of rice or the sabotage of a single

1 laborer; in other word, if there should occur a
2 shortage of rice for the people to eat, it would
3 threaten the stabilization of the nation and it would
4 have such far-reaching effects in the leadership
5 of the war. Should the sabotage of a single laborer
6 prevent a single part of a weapon from being produced,
7 it would have serious effects on the prosecution of
8 the war. Consequently, we sincerely hope you would
9 fully understand the fact that we have to ask for this
10 to be done and that to be done, and take a keen
11 interest in every particular of both politics and
12 economics."

13 ACTING PRESIDENT: This is a convenient
14 place to stop. We will adjourn until one-thirty.

15 (Whereupon, at 1200, a recess was taken.)

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1 The Tribunal met pursuant to recess at 1335.

2 MARSHAL OF THE COURT: The International
3 Military Tribunal for the Far East is now in session.

4 ACTING PRESIDENT: Mr. Cole.

5 MR. COLE: I continue reading at the bottom
6 of page 5:

7 "I do not believe this is interference in
8 politics. To work cooperatively and unitedly I believe
9 one should speak out his opinion; accordingly I would
10 like to request your understanding on this point. And
11 if the will or indication of the military in these
12 demands are to be mistaken as being too strong, the
13 political parties or government officials should
14 frankly give their opinions without hesitation so that
15 we may proceed understanding one another.

16 "I wonder if the case is not where it is, not
17 that the military is too strong, but that the political
18 parties are too weak. I have expressed my various
19 views, but the point is that we should fully realize
20 the mission of Imperial Japan, take full cognizance of
21 the emergency, and exchange frank opinions with each
22 other, in order that we may arrive at an agreement on
23 both political and military policies.

24 "Therefore, I quite agree to the suggestion in
25 which you have stressed the importance of the fact that

1 the military authorities should always act in close
2 concert with the political parties.

3 "Finally, you advised us about the relations
4 between the militarists and the merchants, to which we
5 intend to pay full attention. The other day, the War
6 Minister simultaneously with the decision made on the
7 budget at the cabinet meeting, informed all the forces
8 to the effect that whether it may be a single penny or
9 a single item, let it be used with care, as they are
10 the crystals of painstaking labor of the people. Every-
11 thing is being handled with this attitude and I am
12 hopeful of there not being any mistakes ever."

13 I omit the balance of the document.

14 I now offer in evidence defense document 2786,
15 the sworn deposition of ISHII, Akiho, and respectfully
16 call attention to the doctor's diagnosis at the end of
17 the document, stating the inability of Colonel ISHII
18 to be present before the Tribunal. This witness served
19 in the Military Affairs Bureau under the accused, and
20 relates, from his personal knowledge, General MUTO's
21 actions and efforts in several matters of importance,
22 including attempted settlement of the China Incident,
23 the Tripartite Pact, and the Japanese-American nego-
24 tiations.
25

ACTING PRESIDENT: Mr. Lopez.

1 MR. LOPEZ: If your Honor please, we object
2 to the admission of the affidavit on the ground that
3 the witness is not made available for cross-examination.
4 The witness resides in Japan and there has been no
5 justifiable showing made why the rigidly enforced rule
6 of this Court should be relaxed in this particular case.

7 ACTING PRESIDENT: Do you desire to cross-
8 examine?

9 MR. LOPEZ: Yes, sir.

10 MR. COLE: If the Tribunal please, I want to
11 make my position clear in answer to this objection.
12 We are not only willing, but eager that the prosecution
13 should have a chance to cross-examine this witness.
14 Colonel ISHII has been in the hospital for I think
15 approximately two years with tuberculosis. The latest
16 certificate from his physician estimates that he will
17 be hospitalized for six months to one year. On the
18 8th of October I took the proposed affidavit to the
19 prosecution and stated what the circumstances were.
20 One thing further: when our affidavit was taken, one
21 lawyer from my office and myself were the only ones to
22 see Colonel ISHII. Even under those conditions it was
23 necessary for us to talk with him only twenty minutes
24 to a half hour at a time and then to remove ourselves
25 until his temperature and pulse were down.

1 ACTING PRESIDENT: That was the 12th day of
2 February, according to the affidavit.

3 MR. COLE: Yes, sir. That was during our
4 winter recess.

5 MR. LOPEZ: If the Tribunal please, a commission,
6 was created and a deposition was taken of a defense
7 witness under similar circumstances who was also suffer-
8 ing from tuberculosis. From what I know of the disease
9 it is a very benign disease. I ought to know because
10 my father died of it. A man never loses consciousness
11 until he finally dies. Defense counsel had ample time
12 and opportunity to have asked this Tribunal for the
13 creation of a commission to take the deposition of this
14 witness. If his testimony were not so important,
15 your Honors, I would not have pressed this objection
16 any further.

17 MR. COLE: May it be made clear, if the
18 Tribunal please, that we do not oppose cross-examination
19 of Colonel ISHII? My suggestion is this: that an
20 interrogatory be agreed upon so that it can be taken
21 care of under conditions which are favorable to his
22 health. If a commission of even eight or ten persons
23 should attempt to conduct an examination of him in his
24 hospital room, I can well imagine the effect on his
25 health and the inconvenience of that commission.

1 I should like to be allowed to read the affidavit
2 and have it admitted, subject to an interrogatory
3 prepared by the prosecution and agreed upon with us.
4 That is all.

5 ACTING PRESIDENT: Can you and the prosecution
6 agree on the interrogatories?

7 MR. LOPEZ: We should like to insist upon a
8 cross-examination.

9 ACTING PRESIDENT: A majority of the Tribunal
10 feels that a commission should be appointed and if the
11 commission finds out that the witness is too ill to be
12 examined by the commission, they can act accordingly
13 and take whatever steps may be necessary at that time.

14 MR. LOPEZ: Very well, sir.

15 ACTING PRESIDENT: The document will be with-
16 drawn at the present time.

17 MR. COLE: I next offer in evidence defense
18 document 2579, the affidavit of Bishop James Edward
19 Walsh. Bishop Walsh became acquainted with this accused
20 during a trip to Japan, and gives illuminating evidence
21 regarding General MUTO's energetic and, for himself,
22 sometimes dangerous efforts to bring about an early and
23 mutually satisfactory settlement of the Japanese-American
24 problems in 1940 and 1941. Bishop Walsh also testifies
25 to their joint activities in the same connection. At the

1 request of the State Department of the United States,
2 I propose to omit the first three lines of the paragraph
3 beginning at the bottom of page 1 of the English version,
4 starting in the fourth line with "we agreed to take," etc.

5 MR. LOPEZ: If the Tribunal please, no objection
6 except to the following portions, which are objected to
7 as conclusions and opinions of the witness:

8 The last sentence of the last paragraph on
9 page 3, which begins "I am satisfied," down to "Mr.
10 IKAWA," the last two paragraphs on page 4, and paragraph
11 6 is likewise objected to on the ground that it is
12 immaterial and irrelevant.

13 ACTING PRESIDENT: Have you anything to say,
14 Mr. Cole?

15 MR. COLE: As to the first objection, your
16 Honor, on page 3, at the bottom of the page, I assume
17 that the objection is based on the claim that that is
18 a conclusion. Bishop Walsh uses the words "satisfied"
19 and "conviction," which seems to me to suggest that he
20 knows it, and therefore it is not a conclusion.

21 As to paragraphs 5 and 6, we are most willing
22 that they be omitted.

23 I was not entirely clear on the objection at
24 the bottom of page 4, as to whether it was paragraphs
25 5 and 6 which that covers, or something in addition.

1 MR. LOPEZ: In answer to the query of learned
2 counsel for the defense, I would say it is the last two
3 paragraphs on page 4, beginning with "This concludes",
4 down to "subsequent negotiations."

5 Regarding the first objection, we offer the
6 additional objection that it is speculative.

7 ACTING PRESIDENT: By a majority of the Court,
8 the objection is sustained and the document will be
9 admitted, subject to the parts objected to.

10 CLERK OF THE COURT: Defense document 2579
11 will receive exhibit number 3441.

12 (Whereupon, defense document No. 2579
13 was marked defense exhibit No. 3441, and
14 received in evidence.)
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1 MR. COLE: I will read exhibit 3441.

2 "I, JAMES EDWARD WALSH, being first duly
3 sworn, on oath, depose and say:

4 "That I am now, and was at all times herein
5 mentioned, a Bishop of the Roman Catholic Church belong-
6 ing to and affiliated with the Catholic Foreign Mis-
7 sion Society of America, also known as the Maryknoll
8 Society; that at the time of the happening of the
9 occurrence of the facts herein related I was Superior
10 General of the said Maryknoll Society;

11 "That General MUTO, Akira occupied the posi-
12 tion of Director of the Central Bureau of Military
13 Affairs, with his office in Tokyo, at the time when I
14 made his acquaintance. The following statement con-
15 tains the facts that are known to me regarding the
16 part taken by General MUTO in the peace negotiations
17 of 1941.

18
19 "1. In late November, 1940, Father James M.
20 Drought of Maryknoll (since deceased) and the under-
21 signed were in Japan. While in Tokyo, we were asked
22 by Mr. MATSUOKA, then Minister of Foreign Affairs, if
23 we would take a message to Washington to the effect
24 that the Japanese Government wished to negotiate a
25 peace agreement. As far as I recall, Mr. MATSUOKA
was not very definite about the terms of such an

1
2 agreement. We were told by other officials and
3 spokesmen that the Japanese Government proposed as
4 basic terms of the agreement on their part: (1) a
5 guarantee to nullify their participation in the Axis
6 Pact. if not public repudiation, at least in some
7 definite manner that would be effective and complete,
8 and (2) a guarantee to recall all military forces from
9 China and to restore to China its geographic and
10 political integrity. Other conditions bearing on the
11 relations of Japan and the United States were to be
12 explored and agreed upon in the conversations that it
13 was hoped would ensue. These additional conditions,
14 largely economic in nature, were also discussed with
15 us; by Mr. MATSUOKA to some little extent, but at
16 greater length and with more detail by other repre-
17 sentatives of the Japanese Government, among whom Mr.
18 Tadao IKAWA (since deceased) known to us as a friend
19 and unofficial representative of the then Prime Min-
20 ister, Prince KONOYE (also since deceased) was the
21 most assiduous. Father Drought carried on most of
22 the conversations, as I was largely occupied with
23 missionary affairs.

24 "... We agreed to take the message, provided
25

1 that some assurances would be forthcoming from repre-
2 sentatives of the Japanese Army and Navy regarding the
3 Japanese unanimity of purpose in reaching an agree-
4 ment and carrying it out.

5 "My line-a-day diary records the fact that
6 Father Drought and the undersigned were introduced to
7 General MUTO by Tadao IKEDA on December 27, 1940.
8 General MUTO was then Chief of the Central Bureau of
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1 Military Affairs. We met him at his office in Tokyo.
2 He did not appear to speak English, and neither Father
3 Drought nor the undersigned understood Japanese.
4 Accordingly, General MUTO spoke in Japanese, and Mr.
5 IKATA translated his statements into English for us
6 then and there. I, the undersigned, made no record of
7 the conversation at the time, and I cannot pretend to
8 recall now with complete precision the exact words that
9 General MUTO used. I recall distinctly, however, the
10 substance of what General Muto said, particularly the
11 following statements: (1) that he and his associates
12 in the Japanese Army were in accord with the efforts
13 to reach a peace agreement, and (2) that he would do
14 all in his power to further and assist the efforts to
15 conclude a peace agreement. From this interview Father
16 Drought and I received the impression that General
17 MUTO was pledging himself -- and as far as it lay in
18 his power, the Army he represented -- to concurrence
19 in the proposed undertaking.

20 "I do not recall that the actual terms of the
21 proposed agreement were discussed with General MUTO,
22 although it is quite possible that they were. The
23 interview lasted for some time -- perhaps twenty minutes,
24 perhaps a half hour; the conversation was leisurely
25 and fairly lengthy, and in its course various pertinent

1 points were touched upon. There may have been some
2 mention of the terms. However, I am unable to assert
3 of my own present knowledge that the terms were dis-
4 cussed. I have tried hard to recall this circumstance,
5 but I possess no distinct recollection in regard to
6 this particular point.

7 "I seem to recall, though rather vaguely,
8 that Father Drought had seen some representative of the
9 Japanese Navy some days previously, and had received
10 a similar assurance on behalf of the Navy. I do not
11 recall who this representative of the Navy was, although
12 I think that Father Drought must have mentioned his
13 name to me at the time.

14 "It had been represented to us from the begin-
15 ning, chiefly by Mr. IKAWA but also by others, that the
16 peace proposals not only had the concurrence of the
17 Prime Minister (Prince KONOYE), but were largely a
18 matter of his initiation. We were told that we would
19 be taken to see the Prime Minister before leaving, if
20 we agreed to go to Washington. It was also made known
21 to us that the proponents of the plan would feel more
22 assurance if Father Drought and I both made the journey
23 to Washington in person.

24 "Father Drought and I had booked tentatively
25 on a ship to return to America. It was to sail from

1 Yokohama on December 28, 1940. The evening before
2 the ship was to sail (later on the same day of our
3 visit to General MUTO) we were taken to the Prime Min-
4 ister's office in Tokyo to see him. The Prime Minis-
5 ter was out at the time of our call, and we sailed the
6 next day (December 28th) without seeing him. Our ship
7 was the Nitta Maru.

8 "2. Father Drought and I proceeded to New
9 York, arriving there January 13, 1941. We got in touch
10 with Mr. Hull, the Secretary of State, as promptly as
11 we could. Mr. Hull arranged to have us explain the
12 Japanese proposals in the presence of President Roose-
13 velt and himself. On Thursday, January 23, 1941, we
14 were in Washington, where we explained the matter to
15 the best of our ability to the President and Mr. Hull.
16 Mr. Frank C. Walker, the Postmaster General, was also
17 present at the meeting, which took place in the Presi-
18 dent's office. The meeting lasted something like two
19 and a half hours, perhaps slightly longer; and a lengthy
20 explanation was given. The president and the Secretary
21 of State thanked us for the trouble we had taken, and
22 said they would take the matter under advisement.

23 "I believe it was shortly after this interview
24 that our Government decided to investigate the Japanese
25 proposals, and entered into some conversations with

1 representatives of the Japanese Government relative to
2 the matter.

3 "3. In June, 1941, I went again to Japan
4 to resume my interrupted visitation of the Maryknoll
5 missionaries there and elsewhere in the Far East. I
6 sailed from San Francisco on June 5 and arrived in
7 Japan on June 19. I carried out a complete visitation
8 of our missionaries in Kyoto (Japan) and in Pyengyang
9 (Korea). I wished to proceed to Fushun (Manchuria)
10 for a similar visitation of our missionaries there, but
11 I was informed by the local police in Korea that I would
12 not be allowed to proceed to Manchuria. No reason was
13 given for the prohibition. I returned to Kyoto (Japan)
14 and had not been long there when I was sought out by
15 Mr. Tadao IKAWA. Mr. IKAWA had been sent to Washington
16 to take part in the peace agreement conversations, and
17 had now concluded his mission and returned to Japan. He
18 informed me that the peace proposals had encountered
19 difficulties, but that there was still some hope of a
20 successful termination. He asked me if I would lend
21 my assistance in continuing the negotiations, particu-
22 larly in the matter of helping to get messages to and
23 from the State Department in Washington and to and from
24 the American Embassy in Tokyo. On reflection I replied
25 that I would do so to the extent I considered proper,

1 representatives of the Japanese Government relative to
2 the matter.

3 "3. In June, 1941, I went again to Japan
4 to resume my interrupted visitation of the Maryknoll
5 missionaries there and elsewhere in the Far East. I
6 sailed from San Francisco on June 5 and arrived in
7 Japan on June 19. I carried out a complete visitation
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11 I was informed by the local police in Korea that I would
12 not be allowed to proceed to Manchuria. No reason was
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14 and had not been long there when I was sought out by
15 Mr. Tadao IKAWA. Mr. IKAWA had been sent to Washington
16 to take part in the peace agreement conversations, and
17 had now concluded his mission and returned to Japan. He
18 informed me that the peace proposals had encountered
19 difficulties, but that there was still some hope of a
20 successful termination. He asked me if I would lend
21 my assistance in continuing the negotiations, particu-
22 larly in the matter of helping to get messages to and
23 from the State Department in Washington and to and from
24 the American Embassy in Tokyo. On reflection I replied
25 that I would do so to the extent I considered proper,

1 if the American Embassy approved my doing so. This
2 was in late August, 1941.

3 "On consulting Mr. Eugene Dooman at the
4 American Embassy in Tokyo, I was advised that my
5 cooperation in the capacity outlined might prove useful,
6 and I understood that I was more or less encouraged to
7 perform this little function of helping to transmit
8 information when need arose. I understood also that
9 Mr. Dooman consulted Mr. Grew, the Ambassador, about
10 this procedure and obtained his approval for it.

11 "Mr. IKAWA and I then spent something like
12 two months in facilitating the exchange of information
13 and messages between the Japanese Government, on the
14 one hand, and the United States Government as represent-
15 ed by the State Department in Washington and the American
16 Embassy in Tokyo, on the other. There were many mes-
17 sages. All the messages for the State Department for-
18 warded through my agency were sent by me by cablegram,
19 under my own name and in plain English, but concealed
20 under missionary phraseology, to Father Drought at
21 Maryknoll, New York, for transmission to the officials
22 of the State Department. All the messages for the
23 American Embassy in Tokyo were taken to the Embassy
24 personally by me and given to Mr. Eugene Dooman by word
25 of mouth.

1 "During this period I lived partly at the
2 Fujiya Hotel in Miyanoshita, and partly at the Beach
3 Hotel in Kamakura, sometimes in the company of Mr.
4 Tadao IKATA and sometimes alone. Mr. IKATA awakened
5 me very early one morning in the hotel at Miyanoshita
6 and said that he thought it would be safer if we changed
7 our place of residence. He explained that some of the
8 extremist elements might make trouble for us if we
9 remained. I understood him to refer, not to the ordin-
10 ary people but to the militaristic and pro-Nazi elements
11 in the government or the army or both. I distinctly
12 recall Mr. IKATA's statement at this time to the effect
13 that General MUTO was protecting our activities and
14 would continue to do so to the best of his ability.
15 However, he also said that it was not possible to safe-
16 guard us against every possible eventuality, so we re-
17 moved at once to Kamakura.

18 "At Kamakura I continued for another month to
19 transmit messages in the manner already described. I
20 did not see General MUTO during this period, nor again
21 at any time...

22 "4. On October 14, 1941, I was asked by
23 Mr. IKATA if I would take another message from the
24 Prime Minister (Prince KONOYE) to President Roosevelt
25 in Washington. I said I would consider it. I went to

1 the American Embassy and consulted Mr. Eugene Dooman
2 about the proposal. Mr. Dooman referred the matter
3 to Mr. Grew, the Ambassador, and then advised me that
4 the Embassy approved my taking the message. I then
5 went to the Prime Minister's office, where I was given
6 the message. Prince KONCYE recited his message to me
7 in Japanese, and it was rendered into English for me
8 on the spot by Mr. ITO (described to me as Secretary
9 of the Cabinet Information Board), who was present
10 at the interview. The message was a short statement
11 that reaffirmed the desire of the Japanese Government
12 to conclude the peace agreement. Its real intent, as
13 I was given to understand by Mr. IKAWA and Mr. ITO,
14 was to intimate that the pressure of events on the
15 Japanese Government was such that it would not be
16 able to negotiate much longer, but would have to reach
17 an agreement very soon or not at all. I tried to make
18 this clear in a memorandum which I later gave Mr. Hull,
19 the Secretary of State.

20 "Mr. IKAWA then gave me a ticket on a Japanese
21 plane that was to leave for Canton, China, the follow-
22 ing day. He told me that the ticket had been secured
23 for me by General MUTO. He also gave me a safe-conduct
24 letter from General MUTO, written in Japanese script and
25 signed with General MUTO's name. This letter is now in

1 the files at Maryknoll, New York. He also gave me a
2 code name for General MUTO, to be used in case it should
3 become necessary to refer to him in later messages.
4 The code name was 'Flowers.'

5 "There is no doubt in my mind that the safe-
6 conduct letter of General MUTO enabled me to proceed
7 successfully from Tokyo to Hongkong, preparatory
8 to reaching Washington with my message. I left
9 Tokyo on October 15, 1941. When the plane arrived
10 in Fukuoka, the officials there appeared bent on
11 making me turn back, until I produced the letter of
12 General MUTO. The same thing happened a few days
13 later when I attempted to leave Canton, China, to
14 go to Macao by boat and thence to Hongkong. The
15 plane I had been on from Tokyo to Canton was filled
16 with Japanese Army officers. It also stopped at Naha
17 (overnight) and Formosa, but I do not recall if it
18 was necessary to use General MUTO's letter at these
19 places.

20 "While in Canton, I learned that a change
21 had occurred in the Japanese cabinet and that Prince
22 KONOYE had resigned. At the first opportunity I
23 cabled Mr. IKAWA in Tokyo to ask if there had been
24 any change in policy or attitude that would affect
25 the validity of the message I was carrying. Mr. IKAWA

1 replied to me by a cable to Manila, in which he said
2 that Flowers (General MUTO) gave assurance that there
3 had been no change.

4 "I proceeded to Washington and delivered
5 the message of Prince KONOYE to Secretary Hull on or
6 about November 15, 1941."

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1 MR. COLE: I next offer in evidence defense
2 document 2579A, the same being a photostatic copy of
3 the letter of safe conduct referred to by Bishop Walsh.

4 ACTING PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Defense document 2579A
6 will receive exhibit No. 3441A.

7 (Whereupon, the document above re-
8 ferred to was marked defense exhibit No. 3441A
9 and received in evidence.)

10 MR. COLE: I read this exhibit:

11 "Request. 14 October 1941.

12 "To all military and civil authorities concerned.

13 "Mr. Walsh, the American who bears this letter,
14 is making a trip to Canton with a special mission. Any
15 courtesy or consideration shown him will be greatly
16 appreciated."

17 Signed: "MUTO, Akira (seal)."

18 I call as the next witness IWAKURO, Hideo.

19 MARSHAL OF THE COURT: Mr. President, the
20 witness IWAKURO, Hideo is in Court. He has previously
21 testified before this Tribunal.

22 ACTING PRESIDENT: You are reminded that you
23 are still on your former oath.
24
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1 H I D E O I W A K U R O, recalled as a witness on
2 behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

DIRECT EXAMINATION

BY MR. COLF:

7 Q Mr. Witness, will you please state your name
8 and present address?

9 A My name is IWAKURO, Hideo. My address, No. 789,
10 Denenchofu, 2-Chome, Ota-ku, Tokyo.

11 MR. COLF: I ask that defense document 2589
12 be shown the witness.

13 (Whereupon, a document was handed to
14 the witness.)

15 Q Mr. Witness, I ask you if the document you
16 hold is your affidavit, signed and sworn to by yourself?

17 A This is my sworn deposition to which I have
18 affixed my signature and seal.

19 Q And are the matters contained therein true to
20 the best of your knowledge and belief?

21 A What I have set forth therein is the truth.

22 MR. COLE: If the Court please, we offer
23 defense document 2589 in evidence.

24 ACTING PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Defense document 2589 will

1 receive exhibit No. 3442.

2 (Hereupon, the document above re-
3 ferred to was marked defense exhibit No. 3442
4 and received in evidence.)

5 MR. COLF: Omitting the formal portions:

6 "I, IWAKURO, Hideo, live at No. 789, 2-Chome,
7 Denenchofu, Ota-ward, Tokyo Metropolis, and am aged 50.

8 "My Career: I was appointed an infantry sub-
9 lieutenant in December 1918; was appointed a staff officer
10 of the Kwantung Army in July 1932; served at the Army
11 General Staff Office from August 1936; was appointed
12 the Chief of the Military Administration Section of the
13 War Ministry in February 1939; was appointed colonel
14 in March of the same year, and went over to America as
15 the officer attached to the Military Affairs Bureau to
16 assist Ambassador NOMURA. After returning to Japan in
17 August of the same year, I served as the Commander of
18 an infantry regiment and as the Chief of the IWAKURO
19 Organ successively; was appointed Major General in
20 March 1943 and then served as the Chief of the General
21 Affairs Division of the Sumatra Military Administration
22 Department and as the Chief of the Staff of the 28th Army
23 successively. At the time of the termination of war,
24 I was attached to the Army Munitions Department. As
25 mentioned above, I held a post in the Military

1 Administration Section of the Military Affairs Bureau
2 from August 1938 to March 1941, so I have a fair know-
3 ledge of diplomatic matters, since external affairs as
4 they affect the national defense are studied in this
5 bureau.

6 "The Army's opinion on the foreign policies
7 came from the national defense plan, of which the
8 General Staff was in charge. Besides, the General
9 Staff had the duty to collect and examine military
10 information and diplomatic information connected with
11 it, and supervised military attaches. Accordingly, the
12 Army's opinion on diplomatic policies used to be initi-
13 ated by the General Staff. The Military Affairs Bureau
14 was to report the matters transferred from the General
15 Staff to the War Minister and to negotiate with the
16 Foreign Ministry according to the War Minister's
17 intention. On the other hand, when any matter was pro-
18 posed by the Foreign Ministry to the Military Affairs
19 Bureau, the Military Affairs Bureau, after transferring
20 it to the General Staff to ask for its opinion, obtained
21 the Minister's decision on it and made a reply to the
22 Foreign Office. Such being the case, only a few
23 officers served at the Military Affairs Section of the
24 Military Affairs Bureau in considering diplomatic
25 affairs as they affected national defense."

1 The errata sheet carries over to paragraph F:

2 "On January 22, 1947, former Major General
3 TANAKA, Ryukichi testified that the Military Affairs
4 Bureau sustained a consistent policy aiming at the con-
5 clusion of the Tri-Partite Pact and of construction of
6 the Greater East Asia Co-Prosperity Sphere from the time
7 of the ABE Cabinet. Regarding the attitude of the Army
8 as to the Tri-Partite Pact it was remarkably different
9 from the way in which TANAKA described it. And it is
10 also groundless to say that the military authorities
11 had established a policy as to the construction of the
12 Greater East Asia Co-Prosperity Sphere.

13 "4. On the attitude of Director of the
14 Military Affairs Bureau, MUTO toward diplomatic problems:

15 "It was about the middle of October 1939 that
16 Major General MUTO arrived at his post as the Director
17 of the Military Affairs Bureau. I never heard from
18 Director MUTO of the proposed Tri-Partite Alliance.

19 "About the settlement of the China Incident,
20 however, he frequently gave his views. As he had been
21 on the China front for two years, he was well aware of
22 the extreme difficulty of settling the China Incident.
23 He believed that it was urgent for Japan to settle the
24 China Incident, and that, for that purpose, we should
25 not only directly deal with Chiang Kai-shek instead of

1 taking such an attitude as saying 'Japan will have
2 nothing to do with Chiang Kai-shek', but also make the
3 greatest concessions in the terms of negotiations, so
4 as to bring about peace between the two nations. He
5 further insisted on avoiding a dispute with any third
6 power.

7 "When the German forces won a victory over the
8 British Army in Dunkirk in May, 1940, I discussed it
9 with MUTO. He asserted himself, saying, 'Generally
10 speaking, many Japanese overestimate Germany's strength.
11 Nevertheless, the German Army will never be able to
12 invade Great Britain across the Straits of Dover. The
13 English are sure to rally mentally and materially through
14 the assistance of America. It is to be anticipated as
15 a matter of course that this war will be protracted.'

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1 "On the attitude of Director of the Military
2 Affairs Bureau MUTO toward the Japanese-American
3 negotiations. ---

4 "I went over to America in March 1941 as an
5 assistant of Ambassador NOMURA. It was because the
6 Ambassador asked Vice-Minister of War ANAMI and Chief
7 of the General Staff SUGIYAMA to send an assistant
8 and on the recommendation of Director MUTO the Minister
9 sent me.

10 "My main duty was to assist Ambassador NO-
11 MURA at large. Prior to my visit to America I made
12 arrangements with IKAWA, Tadao, with a view to
13 restoring promptly the diplomatic relations between
14 Japan and America. We proceeded with private nego-
15 tiations on adjustment of the Japanese-American dip-
16 lomatic relations with Maryknoll Bishop Walsh, Mr.
17 Drought, Secretary-General of Maryknoll, and others
18 in America. I, accordingly, prepared a program of
19 formalizing the negotiations between the two coun-
20 tries along this line. Prince KONROYE also expressed
21 himself in favor of our negotiations. Mr. IKAWA and
22 I, after going over to America, reported this plan to
23 Ambassador NOMURA who readily agreed with us. So from
24 then on the negotiations on adjusting the Japanese-
25 American diplomatic relations were entered into in

1 line with this plan.

2 "On April 15, 1941 our tentative plan
3 'Draft of the Understanding between Japan and
4 America' was unofficially taken up by Ambassador NO-
5 MURA and Secretary of State Hull and was reported by
6 telegram from the Embassy at Washington to the Foreign
7 Ministry. At the same time I wired War Minister
8 TOJO urging him to give his support to our proposals.
9 MUTO was very delighted at this, and sent me a tele-
10 gram of thanks.

11 "Later, in August 1941, I was ordered home
12 and returned to Japan. After returning home I was
13 informed by Director of the Military Affairs Bureau
14 MUTO that some of the staff of the Foreign Ministry
15 were criticizing the presence of outsiders in con-
16 nection with affairs of the Foreign Office, such as
17 the efforts of Mr. IKAWA and myself in assisting
18 Ambassador NOMURA, and that, accordingly, War Minister
19 TOJO ordered me to return home in order to get rid
20 of a possible obstacle to further negotiations.

21 "I made a report to the top officials of
22 the War Ministry after I returned home. I was glad
23 to find my efforts being appreciated beyond my ex-
24 pectation. MUTO especially asked me in various ways
25 about the forecast.

1 "When I answered, saying, 'According to
2 my impression when I talked with Secretary of State
3 Hull and Postmaster General Walker, there is a full
4 possibility of bringing the negotiations to a suc-
5 cess,' he was very delighted.

6 "After that I left the War Ministry to be
7 appointed commander of an infantry regiment. My ac-
8 quaintances in the Military Affairs Bureau and the
9 General Staff Office informed me of the fact that
10 MUTO had made an effort to the last to conclude the
11 negotiations between Japan and America."

12 May I say, sir, that the telegram referred
13 to in the third paragraph on page 4 is covered by the
14 certificate 2860 which I mentioned this morning.

15 MR. LOPEZ: If the Tribunal please--

16 ACTING PRESIDENT: Mr. Lopez.

17 CROSS-EXAMINATION

18 BY MR. LOPEZ:

19 Q General, you were attached by the Military
20 Affairs Bureau on the staff of Admiral NOMURA in
21 Washington to represent the Army's viewpoint in the
22 vital negotiations going on at that time?

23 A Yes.

24 Q Of course, the Navy side was well taken care
25 of by the Admiral himself?

1 A The naval side was, and the naval views were
2 fully represented by Captain YOKOYAMA, Naval Attache
3 in Washington.

4 Q As a matter of fact you went to the United
5 States in active military status in your army uniform?

6 A Yes.

7 Q When you arrived in Washington your title
8 was Special Military Adviser to Admiral NOMURA, was
9 it not?

10 A Not as military adviser to the Ambassador,
11 Admiral NOMURA, but my orders were to assist him
12 generally.

13 Q Were you not known by the United States State
14 Department representatives as Special Military Adviser
15 to Admiral NOMURA?

16 A In what manner the United States Government
17 understood my position I do not know.

18 Q I refer to such representatives of the United
19 States Department as Mr. Ballantine, Mr. Hamilton, and
20 the Secretary of State, Mr. Hull, himself?

21 A Yes, I know that these gentlemen placed great
22 importance in me, but how they understood my status
23 I do not know.

24 Q But the fact of the matter was that during
25 the negotiations in Washington when you were there you

1 were the No. 1 spokesman for the Japanese Government,
2 were you not?

3 A Not the spokesman, but one of the several
4 responsible for the initiation of Japanese-American
5 negotiations.

6 Q But you carried the great part of the nego-
7 tiations, you were carrying the ball; so to speak,
8 most of the time when you were there?

9 A I was the actual author of the draft plan
10 for an understanding. At the same time, when the
11 negotiations were brought up to the Hull-NOMURA level,
12 I accompanied Ambassador NOMURA in his negotiations
13 and talks with Secretary Hull on several occasions.

14 Q On those several occasions Admiral NOMURA
15 allowed you to give your views to Secretary Hull
16 himself, is it not?

17 A At these conferences I was given the oppor-
18 tunity to express freely of my own opinion.

19 Q And to show the great importance that you
20 had in those negotiations, is it a fact that at one
21 time Admiral NOMURA requested Under Secretary Wells
22 whether you could see the President yourself?
23

24 A Well, I don't know of that fact at all. How-
25 ever, the Attorney General, Mr. Frank Walker -- cor-
rection: the Postmaster General Frank Walker had

1 said that I and IKA,WA should meet Roosevelt, Presi-
2 dent Roosevelt.

3 Q Just to refresh your memory, did not Amba-
4 sador NOMUKA make this request when you were about
5 to leave for Japan sometime in July of 1941?

6 A No, I did not know that fact at all.

7 Q And as a matter of fact you yourself were
8 conscious of your great importance when in a conver-
9 sation with Mr. Ballantine of the United States State
10 Department you dropped a hint whether it could be
11 arranged that you meet the President yourself?

12 A I, myself, am conscious that I was engaged
13 in a very important work, but I have no recollection
14 whatsoever today that I ever expressed a desire to
15 Mr. Ballantine that I wanted to see the President of
16 the United States.

17 Q You said awhile ago that you expressed your
18 views on the issues pending negotiations, were they
19 your own views or the views of the Army which you
20 represented?

21 A Generally speaking, the views that I ex-
22 pressed were in accord with the general policy of
23 the Army. But my own personal views were also in-
24 cluded in my expressions at the conference -- at the
25 talks, correction.

1 Q Were you being cued up from Tokyo what to
2 say, what to do, in Washington?

3 A Not necessarily on minor matters. However,
4 I did not receive any directions from the Army with
5 respect to any particular matters. However, I knew
6 that the official government viewpoints were wired
7 by the Ministry for Foreign Affairs, and in those
8 reports were included the Army's views also.

9 Q Did not the Army here through the War Minis-
10 try send you instructions what to do?

11 A I have no recollection of receiving direct
12 orders or instructions from the Army.

13 Q Particularly from your friend and superior,
14 the Chief of the Military Affairs Bureau at that time,
15 the defendant MUTO now, you didn't receive any instruc-
16 tions from him?

17 A I have never received any instructions from
18 him.

19 Q Were you not making any reports to him?

20 A As far as reports are concerned, I knew that
21 if they were sent to the Foreign Office they would,
22 as a matter of course, be referred to the Army.
23

24 Q But you are positive that you didn't send any
25 report direct to Mr. MUTO, or General MUTO?

A Yes, I can say so.

1 Q Going back to the views expressed by you
2 to the representatives of the United States Govern-
3 ment, did you, or did you not, on June 4, 1941 have
4 a conference with Secretary Hull, Mr. WAKASUGI,
5 Mr. IKAWA, Mr. MATSUDAIRA, Mr. Hamilton and Mr. Bal-
6 lantine?

7 A I do not recall the date, the 4th of June,
8 but I do remember a conference.

9 Q And it was held at the Wardman Park Hotel
10 at 3 o'clock in the afternoon?

11 A Probably, yes.

12 Q Is it not a fact that at that conference you
13 explained that it was entirely incorrect to assume
14 that the purpose of the understanding was to enable
15 Japan to drift away from the Tripartite Pact, and that
16 if the United States should become involved in the
17 European war, and the circumstances such as would
18 call for Japan to act under its interpretation of
19 its obligations, Japan would feel obliged to dis-
20 charge its obligations, much as Japan would regret
21 taking up arms against the United States?

22 A Yes, I think I explained in such a manner
23 probably.

24 Mr. LOPEZ: May the witness be shown IPS
25 document No. 3127?

1 Q Going back to the views expressed by you
2 to the representatives of the United States Govern-
3 ment, did you, or did you not, on June 4, 1941 have
4 a conference with Secretary Hull, Mr. WAKASUGI,
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17 European war, and the circumstances such as would
18 call for Japan to act under its interpretation of
19 its obligations, Japan would feel obliged to dis-
20 charge its obligations, much as Japan would regret
21 taking up arms against the United States?

22 A Yes, I think I explained in such a manner
23 probably.

24 Mr. LOPEZ: May the witness be shown IPS
25 document No. 3127?

1 May we withdraw the question for the time
2 being?

3 Q General, you were pulled out from Washington
4 after the entry of the Japanese troops into Indo-
5 China in July of 1941, is it not?

6 A Well, I do not know the reason, but because
7 the negotiations became somewhat difficult I wired
8 back to Japan saying that I would like to report the
9 details, and in reply to that telegram I was called
10 back.

11 Q Was that the only reason why you were sent
12 back from the United States to Japan?

13 A Well, I did not know the reason.

14 Q Is it not a fact that weeks previous to the
15 actual entry of Japanese troops into Indo-China, rep-
16 resentatives of the United States Government made
17 representations to you and Admiral NOMURA that the
18 United States Government had been receiving reports
19 of Japanese intention to penetrate into Indo-China?

20 A I have no recollection at present of receiv-
21 ing such news.

22 Q No, I am not referring to any news, I am re-
23 ferring to representations made to you by officials
24 of the State Department in Washington.

25 A I think there were representations, but I

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2 being?

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4 after the entry of the Japanese troops into Indo-
5 China in July of 1941, is it not?

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9 details, and in reply to that telegram I was called
10 back.

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12 back from the United States to Japan?

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15 actual entry of Japanese troops into Indo-China, rep-
16 resentatives of the United States Government made
17 representations to you and Admiral NOMURA that the
18 United States Government had been receiving reports
19 of Japanese intention to penetrate into Indo-China?

20 A I have no recollection at present of receiv-
21 ing such news.

22 Q No, I am not referring to any news, I am re-
23 ferring to representations made to you by officials
24 of the State Department in Washington.

25 A I think there were representations, but I

have no clear recollection of them.

1 Q And you were told, you and Admiral NOMURA,
2 by Secretary Hull and Under Secretary Wells that
3 this move into Indo-China is a demonstration on the
4 part of Japan of lack of sincerity in really entering
5 into peaceful negotiations about the Pacific conflict,
6 is it not?

7 A That may have been so, but I have no recol-
8 lection now.

9 Q And because of the entry into Indo-China by
10 Japanese troops, the President of the United States
11 issued the freezing order, is it not?
12

13 A Yes, that is how I understand it.

14 Q And because of that entry, too, the whole
15 negotiations were disrupted and broken, is it not?

16 A It met with great difficulties.

17 ACTING PRESIDENT: We will recess for fifteen
18 minutes.

19 (Whereupon, at 1445, a recess was
20 taken until 1500, after which the proceedings
21 were resumed as follows:)
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1 PRESIDENT OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Lopez.

4 MR. LOPEZ: If the Tribunal please, may the
5 witness be shown IPS document No. 3127?

6 (Whereupon, a document was handed
7 to the witness.)

8 BY MR. LOPEZ (Continued):

9 Q Please tell the Tribunal what kind of
10 stamp appears on the face of that document.

11 A Do you want me to read it?

12 Q Do you know what I mean by seal or stamp on
13 the face of the document? Please do not read the
14 contents of the document. I am asking you merely
15 whether you know the seal on the cover of that docu-
16 ment.

17 A I wouldn't know the meaning unless I read it.

18 Q I am asking you whether you know the seal
19 that appears on the front cover of the document.

20 A There isn't any seal on this document.

21 Q The stamp on the front cover. Is there no
22 stamp on the front cover?

23 A Yes.

24 Q Have you seen it already?

25 A Yes.

1 Q It is a secret seal, top secret seal, is it
2 not?

3 A Yes.

4 Q And please read the first line after the
5 secret seal, the telegram sent by the Chief of the
6 Military Affairs Bureau to Colonel IYAKURO on the
7 2d of June.

8 (hereupon, the witness spoke in
9 Japanese.)

10 MR. COLE: May I interrupt, sir?

11 ACTING PRESIDENT: Witness, wait a minute.

12 Wait until he translates what the witness
13 said.

14 THE INTERPRETER: The witness: From the
15 Chief of the Military Affairs Bureau to Colonel
16 IYAKURO. "1. According to the information which is
17 reportedly given by President Roosevelt to the Repre-
18 sentatives of Congress, in his 'fireside chats,' the
19 aim of the President in adopting a new conciliatory
20 policy towards Japan is the transfer of the Pacific
21 Fleet to the Atlantic Ocean. According to the said
22 explanation, the U. S. seems to be possessed of a
23 specially strong wishful thinking in judging that
24 Japan will refuse to perform her duty of attacking
25 "the United States under" -- interruption.

1 ACTING PRESIDENT: Now, what is your objection?

2 MR. COLE: If the Tribunal please, I object
3 to the document being read before it is offered and
4 admitted in evidence. We haven't had a chance to
5 look at it. We do not know what is in it, and it is
6 being read now.

7 ACTING PRESIDENT: Apparently, the answer
8 goes far beyond the question.

9 MR. LOPEZ: But, nevertheless, if the Tri-
10 bunal please, the question was already answered by
11 the witness voluntarily.

12 ACTING PRESIDENT: But before he reads it
13 the document should be admitted into evidence.

14 MR. COLE: And if your Honor please, I
15 request, too, that we may see an English copy to know
16 what the document says.

17 ACTING PRESIDENT: You will be given a copy
18 at the proper time.

19 BY MR. LOPEZ (Continued):

20 Q The Colonel IWAKURO mentioned in the docu-
21 ment is you, isn't it?

22 A Yes.

23 Q And the Chief of the Military Affairs Bureau
24 that sent you that cable is the defendant LUTO, is he
25 not?

1 A Yes.

2 MR. LOPEZ: At this juncture, if the Tribunal
3 please, we offer in evidence IPS document 3127.

4 ACTING PRESIDENT: The document is admitted
5 on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 3127 will receive exhibit No. 3443.

8 (Whereupon, the document above
9 referred to was marked prosecution exhibit
10 No. 3443 and received in evidence.)

11 MR. COLE: I have not seen an English trans-
12 lation of this document, nor have we had an opportunity
13 to look at the original. I can't base an objection
14 without seeing one or the other.

15 ACTING PRESIDENT: This matter has been
16 repeatedly gone over time and time again, and the
17 holding has been that an official document of this
18 kind can be introduced in evidence, and you are not
19 entitled to see the contents of it until it is intro-
20 duced in evidence.

21 MR. COLE: May I reserve an objection until
22 after we have studied it?

23 ACTING PRESIDENT: Very well.

24 MR. LOPEZ: With the kind permission of the
25 Tribunal I read the text of the document.

1 THE PRESIDENT: Wait until the Tribunal
2 gets copies.

3 Proceed.

4 MR. LOPEZ: (Reading) "Strictly confidential,
5 Telegram sent by Chief of Military Affairs Bureau to
6 Colonel IWAKURO, 2 June.

7 "1. According to the information which is
8 reportedly given by President Roosevelt to the Repre-
9 sentatives of Congress, in his 'fireside chats,' the
10 aim of the President in adopting a new conciliatory
11 policy towards Japan is the transfer of the Pacific
12 Fleet to the Atlantic Ocean. According to the said
13 explanation, the U. S. seems to be possessed of a
14 specially strong wishful thinking in judging that
15 Japan will refuse to perform her duty of attacking the
16 U. S. under the Tri-Partite Alliance even in case of
17 the United States' entry into the war.
18

19 "2. In his 'fireside chats' he concluded
20 that the European war had already developed into a
21 world war and openly stated that the patrolling of
22 the United States had been greatly strengthened and
23 that every possible effort should be made in insuring
24 that goods necessary to England reach her safely.
25 At the same time, he expressed words of praise re-
garding Chiang Kai-shek for his continued resistance

1 against Japan and stated that he was convinced of
2 the furtherance of his resisting power. All the
3 above are against our wishes and this attitude should
4 be carefully watched.

5 "3. Furthermore, you are presumably already
6 aware of Foreign Minister MATSUOKA having sent an
7 inquiry to Ambassador NOMURA regarding the report that
8 according to the report of Halifax to Eden, Roosevelt
9 insinuated that in regard to these negotiations,
10 difference of views prevailed within the Japanese
11 Government (which is quite contrary to facts.)

12 "4. Please furnish me promptly, for my own
13 personal reference, with your frank opinion on the
14 present negotiations as well as your forecast for
15 the future based on the aforementioned items as well
16 as the atmosphere in the subsequent negotiations."

17 With the reading of this document we close
18 our cross-examination.

19 MR. COLE: I make no objection to the docu-
20 ment.

21 May the witness be excused on the usual terms?

22 ACTING PRESIDENT: He is excused accordingly.

23 MR. COLE: I beg your pardon, sir. I want
24 to ask one more question, if I may.
25

REDIRECT EXAMINATION

1 BY MR. COLE:

2
3 Q Mr. Witness, I want to clear up a confusion
4 in regard to an answer which you gave upon cross-
5 examination.

6 If I understand your answer correctly, you
7 said on being asked whether you were the representa-
8 tive of the Military Affairs Bureau that you were
9 such a representative. Is that strictly and completely
10 correct?

11 A The Military Affairs Bureau had no authority
12 to send anybody abroad, and so it was not in any posi-
13 tion to send any official representative outside of
14 Japan. And, therefore, in the strict sense of the
15 term, I was not a representative.

16 MR. COLE: That is all.

17 May the witness be excused on the usual terms?

18 ACTING PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

20 MR. COLE: I call as our next witness,
21 YAMAMOTO, Kunaichi.

22 - - -
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25

1 K U M A I C H I Y A M A M O T O, recalled as a
2 witness on behalf of the defense, having been
3 previously sworn, testified through Japanese
4 interpreters as follows:

5 ACTING PRESIDENT: You are reminded that
6 you are still under your former oath.

7 DIRECT EXAMINATION

8 BY MR. COLE:

9 Q Mr. Witness, will you please state your
10 name and present address?

11 A My name is YAMAMOTO, Kumaichi; my address,
12 No. 9, Shimouma-cho, 3-chome, Setagaya-ku, Tokyo.

13 MR. COLE: I ask that the witness be shown
14 defense document 2686.

15 (Whereupon, a document was handed to
16 the witness.)

17 Q Mr. Witness, will you state whether the docu-
18 ment you are holding is your affidavit, signed and sworn
19 to by yourself?

20 A This is a sworn deposition prepared by me,
21 and my signature and seal are affixed thereto.

22 Q Are the matters discussed therein true to the
23 best of your knowledge and belief?

24 A Yes.

25 MR. COLE: I offer in evidence defense

document 2686.

1 MR. LOPEZ: If the Tribunal please, no objection
2 except to the last sentence of paragraph 1, page 1, as
3 being a conclusion; subparagraph 2 of paragraph 1
4 because it refers exclusively to HOSHINO; and, like-
5 wise, to the second and third sentences of subparagraph
6 3 on page 2.

7 ACTING PRESIDENT: Would you repeat that last
8 sentence again?

9 MR. LOPEZ: To the second and third sentences
10 of subparagraph 3 on page 2.

11 ACTING PRESIDENT: There are only two sentences
12 in the paragraph, that I can see.

13 MR. LOPEZ: Subparagraph 3 of paragraph 3,
14 starting with the sentence, "They seemed to have had
15 internal hardships..." until the words "...still deeply
16 impressed on me," as being the conclusion and opinion
17 of the witness.
18

19 ACTING PRESIDENT: Is the HOSHINO referred
20 to in subparagraph 2 of paragraph 1 one of the accused?

21 MR. COLE: Yes, that is right.

22 I will agree to omit the reading of those
23 sentences objected to.

24 THE PRESIDENT: The affidavit will be admitted
25 in evidence.

1 CLERK OF THE COURT: Defense document 2686
2 will receive exhibit No. 3444.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 3444 and received in evidence.)

6 MR. COLE: I will read the exhibit, omitting
7 the introduction.

8 "1. I was Chief of the Far Eastern Bureau of
9 the Foreign Office since September 1940 and had con-
10 currently held the post of Chief of the American
11 Affairs Bureau since the last decade of October 1941.
12 Consequently, I had kept in close touch with MUTO and
13 OKA, Chiefs of the Military Affairs Bureaus of the
14 Ministries of the Army and Navy, who had been concerned
15 deeply with the negotiations between Japan and America.
16 Not only that, I had had many chances, through the
17 Liaison conferences between the government and the
18 Imperial General Headquarters, to meet these two per-
19 sons who were both secretaries of the conference, to
20 which I usually presented myself as a sort of liaison
21 secretary for the Foreign Office."

22
23 Skipping to paragraph numbered 2:

24 "2. I will explain further the duties of the
25 secretary for the liaison conference between the govern-
ment and the General Headquarters:

1 "The secretary took charge of the clerical
2 work in the conference, namely, the preparation,
3 explanation and adjustment of the draft as well as
4 the collection of the materials concerned, etc.

5 "By preparation of the draft, I mean preparation
6 for submitting the draft which had been studied and
7 prepared by others on various matters which were deemed
8 necessary to be submitted to the conference.

9 "The draft was not written by the secretary
10 himself. It was to be written by the proper authori-
11 ties in the government or the General Headquarters,
12 respectively, through the ordinary business routine.
13 For instance, the draft on military matters was to be
14 done by the Ministry of the Army or Navy or by the
15 Supreme Command, and that on diplomatic matters would
16 be prepared by the Foreign Office, and those concerned
17 with the resources and productions were done by the
18 Planning Board. To collect and submit and distribute
19 these drafts to the conference is what is meant by
20 'preparation.'

21 "The adjustment of the draft means to adjust
22 the proposed draft after various amendments, as there
23 had usually been active exchange of opinions in the
24 conference.

25 "The decision of the conference was not made

1 by a simple majority. The discussion was continued
2 until all views of the members present were completely
3 agreed, and after that all the members present signed
4 the draft decided upon.

5 "As I stated before, the secretary did not
6 attend the conference as one of the members, but as
7 a clerical official; so that neither HOSHINO, MUTO
8 nor OKA had any right to express their opinions, to
9 vote, nor had they the right to sign the document.

10 "3. Premier TOJO declared, at the beginning
11 of the conference which was opened immediately after
12 the formation of the TOJO Cabinet, that 'the new cabinet
13 will reconsider the Japan-American negotiations entirely
14 on a clean slate, freed from the decision on Septem-
15 ber 6,' and since then careful studies were continued.
16 In the meantime, MUTO, chief of the bureau, always
17 wished the negotiations to reach a satisfactory agree-
18 ment, and he had considerable anxiety in adjusting
19 and softening the strong opinion of some military group
20 which was too prone to be involved in the war.

21 "Especially in November 1941, on the prepara-
22 tion of the A and B drafts which were submitted to
23 America from Japan, a strong opinion was expressed from
24 a certain group of the Supreme Command of the army.
25 I heard from MUTO, however, that he succeeded with

1 difficulty in bringing about a modification of these
2 strong opinions.

3 "In dealing with daily routine functions, MUTO
4 as well as OKA had to get the approval from the Supreme
5 Command, in addition to the consent of their senior
6 officers."

7 Skipping to paragraph 4:

8 "4. The Japanese draft which was decided upon
9 on November 5 was such that it was deemed to be most
10 fair under the political, economic and military
11 situation in Japan at the time, and, in Japan's view,
12 it was a draft which conceded the utmost, so we had
13 expected and heartily wished that the peace would be
14 brought about by understanding and compromise on the
15 part of America.

16 "In the middle part of November, when it was
17 reported from Ambassador NOMURA that President Roosevelt
18 proposed to offer his good offices between Japan and
19 China, we recognized a ray of hope for the future and I,
20 together with the two chiefs, was heartily glad and
21 was busily engaged in making preparations in the event
22 of an agreement's being concluded. The memory of this
23 situation is still very clear in my mind.

24 "At that time, there had been a clear under-
25 standing between the government and the Supreme Command

1 that if the Japan-American negotiations should be
2 concluded, the emergency measures which had been taken
3 would be cancelled and the situation would be restored
4 to a normal condition. I remember it was in the
5 middle of November that both chiefs of bureaus told
6 me that although an instruction had already been issued
7 to the dispatched troops, simultaneously with the
8 conclusion of the negotiations, all emergency measures
9 should be immediately stopped. They were making their
10 best efforts in avoiding any fault in this respect,
11 as this was a most difficult work to be smoothly carried
12 through."

13 You may cross-examine.

14 MR. LOPEZ: If the Tribunal please.

15 CROSS-EXAMINATION

16 BY MR. LOPEZ:

17 Q You are the same YAMAMOTO, Chief of the
18 American Bureau of the Foreign Office, who had constant
19 telephonic conversations with KURUSU at Washington
20 and you at Tokyo in October, November and December of
21 1941?

22 A Yes.

23 Q You constantly gave instructions to Ambassador
24 KURUSU by telephone, using codes, did you not?

25 A I have contacted Ambassador KURUSU via the

YAMAMOTO

CROSS

33,021

1 telephone. However, I recall that the telephonic
2 conversation in which code was used occurred toward
3 the end of November -- My recollection is that when
4 code was used in a telephonic conversation, that was
5 after the latter part of November.

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1 Q You were also sending instructions to
2 Ambassador KURUSU and NOMURA by cable, secret cable?

3 A Instructions were not sent by me. They
4 were sent by the Foreign Minister.

5 Q On November 28, 1941, didn't you send the
6 following secret cable to NOMURA and KURUSU: "The
7 United States has gone ahead and presented this
8 humiliating proposal. This was quite unexpected and
9 extremely regrettable. The Imperial Government can
10 by no means use it as a basis for negotiations.
11 Therefore, with a report of the views of the Imperial
12 Government on this American proposal which I will send
13 you in two or three days, the negotiations will be
14 de facto ruptured. This is inevitable. However, I
15 do not wish you to give the impression that the
16 negotiations are broken. Merely say to them that
17 you are waiting instructions and that, although the
18 opinions of your government are not clear to you, to
19 your own way of thinking, the Imperial Government
20 has always made just claims and has borne great
21 sacrifices for the sake of peace in the Pacific"?

22 A I have a recollection that a telegram to the
23 same effect, in substance, was sent out toward the
24 end of November.
25

Q In your affidavit, Mr. YAMAMOTO, you state

1 that some time in the middle of November, 1941,
2 you were heartened by a proposal on the part of
3 President Roosevelt to mediate between China and
4 Japan and that for that reason General MUTO, Admiral
5 OKA and yourself prepared for plans about what the
6 Government of Japan should do if the agreements
7 were concluded successfully. Now, I ask you if
8 Admiral OKA submitted or prepared any plans to you
9 in that eventuality?

10 A I have no positive recollection of any --
11 whether any concrete plan was submitted by Chief of
12 the Naval Affairs Bureau OKA at that time. However,
13 I heard -- I received information that various
14 considerations were being given to the withdrawal --
15 to the rescinding of any emergency measures in the
16 event such an outcome was realized at that time.

17 Q How about General MUTO; did he prepare a
18 plan or submit it to you?

19 A With regard to military matters, he was
20 speaking of the same things as Admiral OKA was
21 speaking about. And it is my recollection that he
22 was constantly talking about the necessity of making
23 preparations for the withdrawal of Japanese troops
24 from China in the event an agreement was reached
25 between Japan and China -- Japan and the United States.

1 Q Therefore, we could say that there was
2 perfect harmony of views between you from the
3 Foreign Ministry, Admiral OKA from the Navy and
4 General MUTO from the War Ministry at that time. I
5 refer to the period after the receipt of the news
6 about the President's proposal of mediation.

7 A I cannot say that there was perfect agree-
8 ment of views with regard to concrete measures. By
9 the offer of mediation, there were prospects of a
10 successful outcome of the negotiations between the
11 United States and Japan, and there was perfect
12 agreement of views and harmony among us three with
13 regard to the necessity of making preparations with
14 such prospects in view.

15 Q And during that time MUTO expressed to you
16 his views about the stationing and withdrawal of
17 troops in China?

18 A It was felt that immediately upon the
19 consummation, a successful consummation of the
20 negotiations between the two countries, the question
21 of withdrawal of Japanese troops from China would
22 immediately arise and there was perfect agreement in
23 connection with the necessity of making concrete
24 preparations for such a move.
25

Q Mr. YAMAMOTO, you and I could save a lot of

1 Q Therefore, we could say that there was
2 perfect harmony of views between you from the
3 Foreign Ministry, Admiral OKA from the Navy and
4 General MUTO from the War Ministry at that time. I
5 refer to the period after the receipt of the news
6 about the President's proposal of mediation.

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8 ment of views with regard to concrete measures. By
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10 successful outcome of the negotiations between the
11 United States and Japan, and there was perfect
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13 regard to the necessity of making preparations with
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17 troops in China?

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19 consummation, a successful consummation of the
20 negotiations between the two countries, the question
21 of withdrawal of Japanese troops from China would
22 immediately arise and there was perfect agreement in
23 connection with the necessity of making concrete
24 preparations for such a move.
25

Q Mr. YAMAMOTO, you and I could save a lot of

1 time if you would only answer briefly and to the
2 point my question.

3 I asked you if Mr. MUTO expressed to you
4 his views or not?

5 A Yes, he expressed his views to me.

6 Q In writing or just verbally?

7 A At that time my recollection is that these
8 views were expressed to me orally.

9 Q How about the question of oil; did MUTO express
10 to you his views in writing or verbally?

11 A Yes, there were various talks from General
12 MUTO in connection with the problem of petroleum
13 after the submission of proposition "B" to the
14 United States Government. In addition to what the
15 Chief of the Military Affairs MUTO told me orally,
16 my recollection is that around the middle of November
17 he submitted to me, in writing as reference, what he
18 said were the views of the General Staff Office
19 regarding the question.

20 Q That proposal called for asking for six
21 million tons of oil from the United States, did it
22 not -- demanded?

23 A It was considered necessary to secure
24 importation of oil to the amount of six million tons
25 per annum, and in my recollection our desire was to

YAMAMOTO

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secure this amount of petroleum upon the consummation
and realization of proposal "B".

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1 Q Did not Mr. TOGO, as Foreign Minister,
2 consider this proposal as exorbitant, above the
3 normal, usual imports from the United States?

4 A MUTO's plan was presented not as reflect-
5 ing the views of the Army but as representing the
6 views of a section of the General Staff office.
7 At that time, I said that such an exorbitant amount
8 was out of the question, but I accepted the written
9 document for reference.

10 Q Did not the proposal state that if the
11 United States would not give that amount that Japan
12 would wage war against the United States -- would
13 commence military operations against the United
14 States? I changed the phrase; instead of "wage war"
15 "commence military operations."
16

17 A Well, I do not recall the exact words used,
18 but as far as I remember rather strong terms, which
19 sought to persuade the United States as much as
20 possible to accept the requests of the Japanese
21 Government, were used. When I presented this plan
22 to the Foreign Minister, he showed -- he expressed
23 anger and said that it was highly preposterous even
24 to receive such a plan, and I was reprimanded for
25 receiving it.

Q Is it not a fact, Mr. YAMAMOTO, that the

1 MUTO proposal called for military operations against
2 the United States even in the eventuality the United
3 States should agree to it, but if the United States
4 would not deliver the six million tons of oil in
5 equal amounts monthly, seven days from the time of
6 the conclusion of the agreement Japan should under-
7 take military operations against the United States?

8 A As I have said from the outset, this plan
9 was not submitted as the proposal of General MUTO,
10 and he gave it to me as reference, saying that there
11 was a section in the General Staff office which
12 held such views.

13 Q You will have ample opportunity to defend
14 MUTO by other statements, but please answer my last
15 question first.

16 THE MONITOR: Will you please repeat the
17 question, Mr. Lopez?

18 Q I said, you will have ample opportunity to
19 defend MUTO later, but please answer first my last
20 question, whether there was a demand on the United
21 States as I stated to you.

22 A As far as the United States was concerned,
23 such a plan was not -- the demand such as was in-
24 cluded in the plan was not submitted as it was.
25 Later, after very careful consideration, instructions

1 MUTO proposal called for military operations against
2 the United States even in the eventuality the United
3 States should agree to it, but if the United States
4 would not deliver the six million tons of oil in
5 equal amounts monthly, seven days from the time of
6 the conclusion of the agreement Japan should under-
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24 cluded in the plan was not submitted as it was.
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2 the United States even in the eventuality the United
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5 equal amounts monthly, seven days from the time of
6 the conclusion of the agreement Japan should under-
7 take military operations against the United States?

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9 was not submitted as the proposal of General MUTO,
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11 was a section in the General Staff office which
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14 MUTO by other statements, but please answer my last
15 question first.

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17 question, Mr. Lopez?

18 Q I said, you will have ample opportunity to
19 defend MUTO later, but please answer first my last
20 question, whether there was a demand on the United
21 States as I stated to you.

22 A As far as the United States was concerned,
23 such a plan was not -- the demand such as was in-
24 cluded in the plan was not submitted as it was.
25 Later, after very careful consideration, instructions

1 were sent to request four million tons of oil, which
2 figure was arrived at as a result of aggregating the
3 average import volume in the past, the instructions
4 being that this request should be submitted after
5 the acceptance of proposal "B".

6 Q Was it not also true that you demanded --
7 the MUTC proposal demanded from the United States
8 that she ask the Netherlands Indies for four
9 million tons of oil and if the Netherlands Indies
10 would not comply with the delivery of that oil,
11 troops would be sent to the Netherlands Indies?

12 A I think there was something to the effect
13 that the next step would be necessary in the event
14 this demand was not accepted.

15 Q Proposals "A" and "B" contained demands for
16 oil from the United States and the Netherlands,
17 didn't they?

18 A The point is this: that whether with
19 respect to proposal "A" or to proposal "B", if one
20 of the two proposals were accepted by the United
21 States Government, Japan sought to have the United
22 States export to Japan the required amount of
23 materials -- raw materials, including petroleum, to
24 the extent which can be described as follows: that
25 is, restoring the situation to the situation which

1 were sent to request four million tons of oil, which
2 figure was arrived at as a result of aggregating the
3 average import volume in the past, the instructions
4 being that this request should be submitted after
5 the acceptance of proposal "B".

6 Q Was it not also true that you demanded --
7 the MUTC proposal demanded from the United States
8 that she ask the Netherlands Indies for four
9 million tons of oil and if the Netherlands Indies
10 would not comply with the delivery of that oil,
11 troops would be sent to the Netherlands Indies?

12 A I think there was something to the effect
13 that the next step would be necessary in the event
14 this demand was not accepted.

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16 oil from the United States and the Netherlands,
17 didn't they?

18 A The point is this: that whether with
19 respect to proposal "A" or to proposal "B", if one
20 of the two proposals were accepted by the United
21 States Government, Japan sought to have the United
22 States export to Japan the required amount of
23 materials -- raw materials, including petroleum, to
24 the extent which can be described as follows: that
25 is, restoring the situation to the situation which

1 existed prior to the promulgation of the freezing
2 order. However, the concrete or exact amount of
3 raw materials, including oil, were not stipulated
4 in either proposal "A" or proposal "B". It was
5 the Japanese Government's intention to determine
6 the amount of oil to be imported following the
7 acceptance -- through negotiation following accept-
8 ance by the United States of proposal "A" or
9 proposal "B".

10 Q But, if the United States would not give
11 you the full amount you wanted -- demanded, what
12 would happen under the plan?

13 MR. COLE: If your Honor please, I object
14 to this question as calling for a purely speculative
15 answer.

16 ACTING PRESIDENT: Objection overruled.

17 A At that time, we did not have any idea --
18 entertain any ideas of returning again to the situ-
19 ation prevailing prior to the consummation of
20 negotiations when we considered the question of the
21 possibility of non-acceptance of the concrete
22 particulars of the Japanese demand.

23 Q My question is very simple, Mr. YAMAMOTO.
24 I will repeat it to you again, and please answer it
25 directly. Under the MUTC plan, what would happen

1 if the United States would not accept your demand
2 for four million tons of oil?

3 A It is my recollection that if the point
4 sought in the proposal, which was handed over to me
5 by MUTO, was not accepted, then we were to return
6 to the situation prevailing prior to the consummation
7 of the negotiations.

8 Q In plain, ordinary, common language of the
9 street, what does it mean, stripped of its diplo-
10 matic verbiage? What would happen under the MUTO
11 plan?

12 A Then, I shall reply, prior to the success-
13 ful consummation of the negotiations.

14 Q Which means attacking the United States by
15 military operations, isn't that it?

16 A At that time, my understanding, that was
17 not so.

18 Q Are you sure of that?

19 A I do not recall the phraseology used, but
20 my understanding was that there would be no war breaking
21 out merely because six million tons of oil were
22 refused.

23 ACTING PRESIDENT: We will adjourn until
24 nine-thirty tomorrow morning.

25 (Whereupon, at 1600, an adjournment

YAMAMOTO

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was taken until Thursday, 13 November 1947,
at 0930.)

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13 NOVEMBER 1947

I N D E X
Of
WITNESSES
(cont'd)

<u>Defense' Witnesses</u>	<u>Page</u>
MUTO, Akira (an Accused)	33080
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<u>NOON RECESS</u>	33093
Direct (cont'd) by Mr. Cole	33095
<u>AFTERNOON RECESS</u>	33148
Direct (cont'd) by Mr. Cole	33149
Direct (cont'd) by Mr. Brannon	33155
Direct (cont'd) by Mr. FUJII	33157
Direct (cont'd) by Mr. Freeman	33159
Direct (cont'd) by Mr. HOZUMI	33162

13 NOVEMBER 1947

I N D E X

Of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
3167		3445	Plan Regarding Future Steps in Negotiations between Japan and the United States		33037
1500-A-8	3446		Excerpt from "Hearings before the Joint Committee on the Investigation of the Pearl Harbour Attack, Congress of the United States" (Part 20, p.4010)		33050
2785	3447		Affidavit of MIKI, Yoshihide		33054
1335	3448		Regulations for the Enforcement of the Army Officers' Service Ordinance (War Ministry Ordinance No. 28, 30 November 1927)		33059
1337	3449		Regulations Concerning Personal Matters of Army Officers (Imperial Ordinance No. 198, March 3, 1941)		33060
2779	3450		Affidavit of OHIRA, Hideo		33062
2685	3451		Affidavit of KUMEGAWA, Yoshiharu		33069

13 NOVEMBER 1947

I N D E X
of
EXHIBITS
(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2805	3452		Excerpt from the Book entitled "The Winning of the War in Europe and the Pacific" - General Marshall's Re- port (p.74)		33077
2806	3453		Excerpt from the Book entitled "The Winning of the War in Europe and the Pacific" - General Marshall's Re- port (p.75 and 78)		33077
2679	3454		Affidavit of MUTO, Akira		33081

1 Thursday, 13 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 Mr. Lopez.

9 MR. LOPEZ: May it please the Tribunal.

10 - - -

11 K U M A I C H I Y A M A M O T O, called as a
12 witness on behalf of the defense, resumed the
13 stand and testified through Japanese inter-
14 preters as follows:

15 CROSS-EXAMINATION

16 BY MR. LOPEZ (Continued):

17 Q Mr. YAMAMOTO, under the plan submitted to you
18 by MUTO around the middle of November 1941, even if
19 the Dutch would come across with 4,000,000 tons of
20 oil, even if the Americans would come across with
21 6,000,000 tons of oil, if Great Britain would stop
22 aiding Chiang Kai-shek, just the same under that plan
23 Japan would commence and open hostilities against
24 both Great Britain and the United States, isn't that
25 true?

1 MR. COLE: Your Honor, I object to that
2 question as calling for a speculative answer; further,
3 the prosecution does not contend that the plan itself
4 showed what would happen if those demands were not
5 granted.

6 MR. LOPEZ: No comment; we leave it entirely
7 to the Court.

8 ACTING PRESIDENT: Objection overruled.

9 Q Please answer.

10 A I shall reply to your question based on what
11 I have been thinking since yesterday on your questions
12 directed to me on this matter.

13 I recall that in the plan submitted to me by
14 General MUTO fairly strong language was used in regard
15 to what would happen if, after the successful conclu-
16 sion of the negotiations, the provisions of the final
17 agreement were not carried out by the United States.

18 Q Please answer my former question.

19 A Furthermore, I recall that in the plan
20 language was used to the effect that if aid -- if
21 activities aiding the Chiang regime were not brought
22 to a definite stop hostilities would be commenced.

23 Q In other words, your answer is an affirmative
24 one to the first question I addressed to you?

25 A On the whole that was the purport of the plan.

1 MR. LOPEZ: May the witness be shown IPS
2 document 3167?

3 Q This bears a penciled note there, "18 November
4 1941. From MUTO, Chief of Military Affairs Bureau,"
5 then with the signature "YAMAMOTO." That is your
6 handwriting, is it not?

7 A This penciled note is written in my own
8 handwriting.

9 Q And when you stated "From MUTO, Chief of
10 Military Affairs Bureau," you had reference to the
11 defendant in the dock, Akira MUTO?

12 A Yes.

13 Q And you scribbled this note at the time you
14 received this document, IPS 3167, from him on 18
15 November 1941?

16 A Yes, as you say.

17 Q And this red seal that appears on the front
18 cover of that document is a state secret seal, isn't
19 it?

20 A Yes.

21 Q It is the highest and the most secret seal
22 of the Japanese Government?

23 A Yes, as you say.

24 MR. LOPEZ: If the Tribunal please, we offer
25 in evidence IPS document 3167.

1 ACTING PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution document 3167'
3 will receive exhibit No. 3445.

4 (Whereupon, the document above
5 referred to was marked prosecution exhibit
6 No. 3445 and received in evidence.)

7 MR. LOPEZ: We read the whole text of the
8 document, Mr. President:

9 "Page 1. State Secret. No. 19 of 30 copies.

10 "Plan Regarding Future Steps in Negotiations
11 between Japan and the United States.

12 "/Pencil Note/ 18 November 1941. From MUTO,
13 Chief of Military Affairs Bureau. YAMAMOTO.

14 "Page 2. Necessary Steps in case a Treaty
15 is Concluded on the A Draft.

16 "1. To have the U.S.A. admit that 'The
17 Government of the United States shall not take any
18 such measures or actions as will obstruct the
19 Japanese Government's steps and efforts regarding a
20 solution of the China Incident' at the end of the
21 first item of Article 111 (Measures for establishment
22 of peace between Japan and China) of our Draft of the
23 25th of September means 'to avoid and abstain from any
24 kind of action helping Chiang' as specified at the end
25 of the instructions given to Ambassador NOMURA on

1 September 13.

2 "2. To have the U.S.A. admit the following,
3 as its understanding of Article IV (Trade between
4 Japan and U.S.A.) of our Draft of September 25:

5 "Both governments, within 3 days of their
6 agreement to this understanding, shall reciprocally
7 abolish their property freezing measures; and the
8 Government of the United States shall supply Japan
9 with six million tons of mineral oil a year (which
10 includes one million and a half tons of aviation
11 gasoline), equal amounts being supplied each month.

12 "3. With regard to Article V (Economic
13 Problems in the Pacific) of our Draft of September 25:

14 "(a) The first item shall be revised as
15 follows:

16 "Both governments hereby reciprocally pledge
17 themselves that the economic activities of Japan and
18 U.S.A. in the Pacific Area shall be carried on by
19 peaceful means, and that in case the principle of non-
20 discrimination in international trade is applied to
21 the whole world, it shall also be applied to all areas
22 of the Pacific including China.

23 "(Note) If U.S.A. avoids the condition, 'in
24 case the principle of nondiscrimination is applied to
25 the whole world,' then the original Draft of September

1 25 shall be revived.

2 "(b) To have the U.S.A. admit the following
3 as its understanding of the second and third items:

4 "The Government of the United States shall
5 take steps to make the Netherlands Indies accept,
6 within three days of the agreement to this understand-
7 ing, the demands of the Japanese Government presented
8 through Ambassador YOSHIZAWA to the Netherlands
9 Indies on the trade, traffic and communication,
10 between Japan and the Netherlands Indies, and the
11 freedom of enterprise, entry, residence and business
12 of Japanese subjects in the Netherlands Indies.

13 "But Japan shall, for the time being, be
14 supplied with the yearly amount of four million tons
15 of mineral oil, equal amounts being supplied each
16 month.

17 "4. To have the U.S.A. admit the following;
18 before the conclusion of the A Draft:

19 "The Government of the United States shall
20 take measures to have the British Government, within
21 three days of the conclusion of /TN: an agreement on/
22 the A Draft, restore the Anglo-Japanese trade relations
23 and at the same time avoid and refrain from any kind
24 of action helping Chiang, such as closing the Burma
25 Road, etc.

1 "5. In case the avoidance of and the
2 abstinence from actions helping Chiang, the lifting
3 of the property freezing measures on the part of
4 U.S.A. and Great Britain, and the measures to restore
5 trade with Japan on the part of the Netherlands
6 Indies are not actually carried out after one week
7 has passed since the conclusion of /TN: an agreement
8 on/ the A Draft, the Japanese Empire shall open
9 hostilities against U.S.A., Great Britain, and the
10 Netherlands, and in case the Netherlands Indies does
11 not follow the lead of U.S.A. and Great Britain when
12 they take the appropriate steps, Japan shall send
13 the necessary units to the Netherlands Indies for
14 the sake of security.

15 "For this reason, Japan shall unilaterally
16 make the necessary manifestation of her intentions to
17 U.S.A. when the A Draft is signed.

18 "Necessary Steps in case a Treaty is
19 Concluded on the B Draft.

20 "1. To have the U.S.A. consent to the
21 following as her understanding of the second item:
22

23 "The Government of the United States shall
24 take measures to have the Netherlands Indies accept,
25 within three days of the agreement to this understand-
ing, the demands of the Japanese Government presented

1 through Ambassador YOSHIKAWA to the Netherlands Indies
2 on the trade, traffic and communication between Japan
3 and the Netherlands Indies and the freedom of enter-
4 prise, entry, residence and business of Japanese
5 subjects in the Netherlands Indies.

6 "But Japan shall, for the time being, be
7 supplied with the yearly amount of four million tons
8 of mineral oil, equal amounts being supplied each
9 month.

10 "2. To have the U.S.A. admit the following
11 as its understanding of the third item:

12 "Both Governments, within three days of the
13 agreement to this understanding, shall reciprocally
14 abolish their property freezing measures; and the
15 Government of the United States shall supply Japan
16 with six million tons of mineral oil a year (which
17 includes one million and a half tons of aviation
18 gasoline), equal amounts being supplied each month.

19 "3. To have the U.S.A. admit the following
20 as its understanding of the fourth item:

21 "The meaning of the fourth item is that the
22 Government of the United States shall avoid and ab-
23 stain from any kind of action helping Chiang and both
24 Governments promise to declare this point to the world
25 when they sign the B Draft.

1 through Ambassador YOSHIZAWA to the Netherlands Indies
2 on the trade, traffic and communication between Japan
3 and the Netherlands Indies and the freedom of enter-
4 prise, entry, residence and business of Japanese
5 subjects in the Netherlands Indies.

6 "But Japan shall, for the time being, be
7 supplied with the yearly amount of four million tons
8 of mineral oil, equal amounts being supplied each
9 month.

10 "2. To have the U.S.A. admit the following
11 as its understanding of the third item:

12 "Both Governments, within three days of the
13 agreement to this understanding, shall reciprocally
14 abolish their property freezing measures; and the
15 Government of the United States shall supply Japan
16 with six million tons of mineral oil a year (which
17 includes one million and a half tons of aviation
18 gasoline), equal amounts being supplied each month.

19 "3. To have the U.S.A. admit the following
20 as its understanding of the fourth item:

21 "The meaning of the fourth item is that the
22 Government of the United States shall avoid and ab-
23 stain from any kind of action helping Chiang and both
24 Governments promise to declare this point to the world
25 when they sign the B Draft.

1 "4. To have the U.S.A. admit the following
2 before the conclusion of the B Draft:

3 "The Government of the United States shall
4 take measures to make the British Government, within
5 three days of the conclusion of /TN: an agreement on/
6 the B Draft, restore the Anglo-Japanese trade relations
7 and at the same time avoid and refrain from action
8 helping Chiang.

9 "5. In case the avoidance of and the
10 abstinence from actions helping Chiang, the abolition
11 of the property freezing measures on the part of the
12 U.S.A. and Great Britain, and the measures to recover
13 the trade with Japan on the part of the Netherlands
14 Indies are not actually carried out after one week
15 has passed since the conclusion of /TN: an agreement
16 on/ the B Draft, the Japanese Empire shall open
17 hostilities against U.S.A., Great Britain and the
18 Netherlands and in case the Netherlands Indies does
19 not follow the lead of U.S.A. and Great Britain when
20 they take the appropriate steps, Japan shall send the
21 necessary units to the Netherlands Indies for the
22 sake of security.

23
24 "For this reason Japan shall unilaterally
25 make the necessary manifestation of her intentions to
U.S.A. when the B Draft is signed."

1 With the reading of the document we close
2 our cross-examination.

3 ACTING PRESIDENT: Mr. Cole.

4 MR. COLE: Sir, I propose some brief re-
5 direct examination.

6 REDIRECT EXAMINATION

7 BY MR. COLE:

8 Q Mr. YAMAMOTO, in yesterday's cross-examination
9 by Mr. Lopez at least on four occasions he referred to
10 the plan regarding the 6,000,000 tons of oil as MUTO's
11 plan. I ask you whether or not this proposal which
12 you received from General MUTO was General MUTO's
13 plan or proposal?

14 A When General MUTO gave me this plan, he
15 added the following words: This plan was presented
16 to me by the General Staff in very strong terms. I
17 myself have not yet recognized it as a plan represent-
18 ing the army as a whole but because the General Staff
19 insisted so strongly that this plan be presented, I
20 am handing it to you for your reference.

21 Q Did you have any further discussion with
22 General MUTO regarding that proposal?

23 A When I received this plan I glanced through
24 it once and then immediately told General MUTO that
25 no one could accept such a foolish plan and refused

to accept it; but since General MUTO again asked me

~~to accept it merely as reference material I did~~

1 finally accept it.

2 I recall that later General MUTO told me a
3 story in private. This was concerning General MUTO's
4 extraordinary efforts in trying to see the successful
5 consummation of our plans "A" and "B". Foreign Minister
6 TOGO staked his position, ministerial position, on the
7 success of plan "A" and "B" and worked untiringly for
8 its success. Since the contents of that plan included
9 the withdrawal of our troops from Southern French Indo-
10 China the General Staff vigorously opposed it. There-
11 upon General MUTO employed all his powers of persuasion
12 on the General Staff and finally got them to accept
13 Foreign Minister TOGO's plan; and then the General
14 Staff after accepting this, Foreign Minister TOGO's
15 plan, with great reluctance, immediately presented its
16 own plan through General MUTO as if returning tit for
17 tat. General MUTO told me that he was very much dis-
18 mayed at this attitude of the General Staff.

19 This plan submitted by the General Staff is
20 the plan which the prosecution just presented a while
21 ago.
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1 Q Was this proposal for a demand of six
2 million tons of oil ever carried out?

3 A The circumstances surrounding the acceptance
4 of the plan being as I have testified, this plan was
5 not even discussed at the Liaison Conference. As for
6 the proposal regarding the import of six million tons
7 of oil we completely disregarded this, and after due
8 negotiations with the authorities concerned we de-
9 cided that four million tons would be a fair figure,
10 and sent instructions to Admiral NOMURA to that
11 effect.

12 Q Then the demand for six million tons was
13 never sent to America, is that correct?

14 A Never.

15 Q Mr. YAMAMOTO, you said that after a discus-
16 sion between the officials involved a new plan was
17 made. Who were those officials?

18 A My recollection is that it was the officials
19 of the War Ministry, the Navy Ministry and the Planning
20 Board.

21 Q Do you know anything more -- any more details
22 as to how the figure of four million tons was ar-
23 rived at?

24 A My recollection is that this figure of four
25 million tons was the average of normal imports of

oil from America over a span of several years.

1
2 Q Referring now to the exhibit just presented
3 by the prosecution, No. 3445, it states that upon
4 the failure of certain -- of meeting certain condi-
5 tions, hostilities would be commenced. Do you know
6 whether General MUTO personally was the author of
7 that plan?

8 A In your question just now I understood you
9 to ask whether or not the plan specified that if
10 certain conditions were not met hostilities would be
11 commenced. My understanding of the plan was that if
12 after the conclusion of negotiations the provisions
13 of the agreement reached were not carried out, then
14 hostilities would be commenced. As for General MUTO,
15 he made it perfectly clear to me at the time that he
16 felt himself that the plan was outrageous, that it
17 was not even worth taking up, that it was not the
18 result of his own ideas, and that he had not drafted
19 it.

20 Q As a matter of fact, Mr. YAMAMOTO, in these
21 matters which have been discussed this morning, Gen-
22 eral MUTO was doing those things which the post of
23 Chief of the Military Affairs Bureau required, is
24 that correct?

25 MR. LOPEZ: Objection, as being leading and

1 asking for the conclusion of the witness.

2 MR. COLE: I agree, sir. I will reframe it.

3 Q Mr. YAMAMOTO, what official had the job in
4 the Japanese Government as acting as liaison man be-
5 tween the Foreign Office and the Imperial General
6 Headquarters or General Staff?

7 A The official who was charged with liaison
8 between the Foreign Ministry and the Army, or in
9 matters pertaining to the Liaison Conference was
10 myself as far as the Foreign Ministry was concerned,
11 Foreign Affairs Ministry was concerned. As for the
12 Army, the Chief of the Military Affairs Bureau, by
13 virtue of his position, was the liaison man for all
14 other offices outside of the Army. Furthermore, as
15 one of the secretaries in the liaison conferences
16 between the Imperial General Headquarters and the
17 government, General MUTO often had to act as liaison
18 man in matters pertaining to the General Staff.

19 Q Regarding the proposals mentioned in exhibit
20 3445, that is as to matters to be taken up upon the
21 acceptance of either the A and B plan, was this pro-
22 posal officially accepted by the Japanese Government,
23 if you know?

24 A The Japanese Government never adopted these
25 proposals.

1 MR. COLE: That is all, if your Honor please.

2 ACTING PRESIDENT: I have a question here
3 from a Member of the Court: Is there any writing or
4 memorandum anywhere which would show that MUTO per-
5 sonally disapproved of this plan which the witness
6 attributes to the General Staff?

7 THE WITNESS: I did not receive any special
8 note or writing from General MUTO on this matter. I
9 only heard of this from him orally, as I have testi-
10 fied a while ago.

11 ACTING PRESIDENT: That is not an answer to
12 the question: Is there any writing or memorandum
13 anywhere which would show that MUTO personally dis-
14 approved of this plan?

15 THE WITNESS: No, there is no such writing.

16 ACTING PRESIDENT: I have another question
17 from a Member of the Tribunal: Is there anything in
18 the document itself showing the plan came from the
19 General Staff besides your memory?
20

21 THE WITNESS: I was testifying only from
22 my memory.

23 ACTING PRESIDENT: That is all.
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1 MR. COLE: May it please the Tribunal, I
2 invite attention to exhibit 2944 which sets up the
3 ultimate plan that was accepted by the Japanese govern-
4 ment.

5 MR. LOPEZ: Just one question, if your Honor
6 please.

7 Is there anything on exhibit 3445 wherein you
8 noted your personal reaction that it was an outrageous
9 and unworkable plan?

10 ACTING PRESIDENT: I don't think that that is
11 new matter arising out of the redirect examination.

12 MR. LOPEZ: That concludes the re-cross, your
13 Honor.

14 MR. COLE: May the witness be excused on the
15 usual terms?

16 ACTING PRESIDENT: He may be excused accordingly.

17 (Whereupon, the witness was excused.)
18

19 MR. COLE: I now offer in evidence defense
20 document 1500-A-8, this being an excerpt from the
21 Report of the Congressional Investigation of the Pearl
22 Harbor Attack, and citing a portion of the KONOYE
23 Memoirs. This describes a further effort of the accused
24 to avoid war, and makes clear that in the conversation
25 described herein he was attempting to gain information

1 that would enable the War Ministry more effectively to
2 oppose the strong attitude of the Imperial General
3 Staff.

4 ACTING PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Defense document 1500-A-8
6 will receive exhibit No. 3446.

7 (Whereupon, the document above re-
8 ferred to was marked defense exhibit No. 3446
9 and received in evidence.)

10 MR. COLF: For the Tribunal's assistance, may
11 I say that the date referred to is 14 October 1941 as
12 appears from the Pearl Harbor Report.

13 "These opening remarks of the Minister of War
14 were so sudden that the other Cabinet Ministers were
15 somewhat taken aback and there was no one who would
16 open his mouth to answer. The Cabinet meeting, after
17 settling other subjects for discussion, made no
18 reference to this problem of continuing negotiations
19 and adjourned.

20 "On the afternoon of the same day, MUTO, the
21 Chief of the Military Affairs Bureau, came to the Chief
22 Secretary of the Cabinet, and said, 'Somehow or other
23 it seems that the reason that the Premier can not make
24 up his mind is due to the fact that the Navy can not
make up its mind. Thus, if the Navy really does not

1 wish war, the Army also must think about it. But the
2 Navy does not say anything openly to the Army and only
3 says that "it will leave it up entirely to the Premier".
4 Just to say that it will be up to the decision of the
5 Premier will not be enough to control the inner circles
6 of the Army. But if the Navy will openly come to the
7 Army and say that "The Navy at this time does not wish
8 war", then the Army can easily control its command. I
9 wonder if you can not manage it so that the Navy will
10 come and say something along this line.' Thereupon,
11 the Chief Secretary spoke to OKA, the Chief of the
12 Naval Affairs Bureau, concerning this matter, but all
13 that the latter would say was this: 'As far as the
14 Navy is concerned, no matter what anyone may think, for
15 it to say that it does not wish war is something that it
16 can not do in any formal manner. What the Navy can say
17 is that "it is entirely up to the decision of the
18 Premier."'

19 With reference to our next witness, MIKI,
20 Yoshihide, may I say that his testimony is directed
21 toward other testimony already in the record, and I
22 will give the paragraph references: paragraph 3 refers
23 to record pages 15,868 and 9; paragraph 4 refers to
24 record page 15,871; and paragraph 5 to record page
25 15,867. The quotations given are not exact quotations

1 from the record but are translations from the Japanese
2 record and I apologize for the rather rough English
3 translation.

4 We call as our next witness MIKI, Yoshihide.

5 MARSHAL OF THE COURT: Mr. President, the
6 witness MIKI is in court. He has previously testified
7 before this Tribunal.

8 ACTING PRESIDENT: You are reminded that you
9 are still under your former oath.
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1 Y O S H I H I D E M I K I, recalled as a witness on
2 behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. COLE:

7 Q Mr. witness, will you please state your name
8 and present address?

9 A My name is MIKI, Yoshihide. My address is
10 229 1-chome, Saginomiya, Nakano-ku, Tokyo,

11 MR. COLE: I ask that the witness be shown
12 defense document 2785.

13 (Whereupon, a document was handed to
14 the witness.)

15 Q Mr. MIKI, is that your affidavit, signed and
16 sworn to by yourself?

17 A Yes.

18 Q And are all the matters contained therein true
19 to the best of your knowledge and belief?

20 A Yes.

21 MR. COLE: We offer defense document 2785 in
22 evidence.

23 MR. LOPEZ: We have no objection, if the
24 Tribunal please, and we suggest that the whole text
25 of the affidavit be considered as having been read and

1 we offer no cross-examination.

2 MR. COLE: That is perfectly agreeable, sir.

3 ACTING PRESIDENT: Do you desire to read them?

4 MR. COLE: Yes, I will read it then, sir.

5 ACTING PRESIDENT: I asked, do you wish to read
6 it.

7 MR. COLE: Yes, I will read it. Is the
8 document admitted then, sir?

9 ACTING PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Defense document 2785
11 will receive exhibit No. 3447.

12 (Whereupon, the document above re-
13 ferred to was marked defense exhibit No. 3447
14 and received in evidence.)
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1 MR. COLE: Omitting the formal parts:

2 "1. My name is MIKI, Yoshihide. I had
3 formerly been a Surgeon Lieutenant General of the
4 Japanese Army. In 1941 I had been the Chief of the
5 Medical Bureau of the War Ministry.

6 "2. To the best of my recollection, at a
7 meeting of the chiefs of bureaus on about 27 November
8 1941, the Chief of the Military Affairs Bureau MUTO
9 had not read a document under the title of 'Principal
10 Reasons Alleged for the Commencement of Hostilities
11 Against the U. S. A. and Britain,' which comes under
12 exhibit No. 1175 (IPS document No. 990.)

13 "3. So far as I remember, there were no
14 facts as stated below:

15 "When the United States' reply dated
16 25 November 1941 arrived, MUTO, at the meeting of
17 chiefs of bureaus on 29th of the same month, expressed
18 his views by saying that if Japan accepted this pro-
19 posal, not only the firm establishment of the East
20 Asia Co-prosperity Sphere would come to naught, but
21 Japan would be sagged and then would go out of existence
22 in order to prevent this and to firmly establish the
23 East Asia Co-prosperity Sphere, we have to fight by all
24 means.'

25 "4. To the best of my recollection, there

1 were no facts as stated below:

2 "At noon on 9 December 1941, at a tiffin
3 party of chiefs of bureaus of the War Ministry, all
4 chiefs attended the party, and Mr. MUTO chatted with
5 them about the process of the diplomatic negotiations
6 up to that date and so forth. At that time Mr. MUTO
7 told that, in short, the dispatches of Ambassador
8 KURUSU and S. S. "TATSUTA-MARU" and so forth were no
9 more than measures for camouflaging the way leading
10 to the commencement of the hostilities.'

11 "5. There had not been such fact that the
12 Chief of the Military Affairs Bureau MUTO made his
13 appearance at the dining room of the War Ministry
14 every day to take his lunch. I remember that, on the
15 contrary, he did not appear there on most of those
16 days. I also do not recollect that, at noon time on
17 9 December, the next day of the outbreak of war against
18 the United States and Britain, all the chiefs of bureaus
19 of the ministry ever gathered at the dining room. On
20 that day, all chiefs of bureaus of the ministry were
21 too busy."

22 May the witness be excused on the usual terms?

23 ACTING PRESIDENT: He is excused accordingly.

24 (Whereupon, the witness was excused.)

25 MR. COLE: I call as our next witness,

SAKAKIHARA, Kazuye.

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2 K A Z U Y E S A K A K I H A R A, recalled as a
3 witness on behalf of the defense, having been
4 previously sworn, testified through Japanese
5 interpreters as follows:

6 ACTING PRESIDENT: You are reminded that
7 you are still on your former oath.

8 DIRECT EXAMINATION

9 BY MR. COLE:

10 Q Mr. Witness, please state your name and
11 address.

12 A My name is SAKAKIHARA, Kazuye; my address,
13 42 Honshio-cho, Shinjuku-ku, Tokyo.

14 MR. COLE: May the witness be shown defense
15 document 2577?

16 (Whereupon, a document was handed
17 to the witness.)

18 Q Mr. Witness, is that your affidavit, signed
19 and sworn to by you?

20 A Yes.

21 Q Are the matters discussed therein true to
22 the best of your knowledge and belief?

23 A They are completely true.

24 MR. COLE: We offer defense document 2577 in
25

1 evidence.

2 MR. LOPEZ: If the Tribunal please, the prose-
3 cution objects to the entire affidavit, on the ground
4 that it is a memorandum on the appointments and dis-
5 missals of army officers. The best evidence on the
6 subject matter would be the laws and regulations them-
7 selves, and not the opinion of this witness. The
8 matter of appointments and dismissals of army officers
9 concerns not alone MUTO, but all the defendants who
10 were in the military service. This type of evidence,
11 therefore, should have been introduced during the
12 general phase.

13 MR. COLE: Sir, the matter of resignation
14 came up particularly with regard to the accused MUTO,
15 and particularly, if I am not mistaken, in the prosecu-
16 tion's answer to our motion to dismiss.

17 In answer to the rest of the objection, the
18 affidavit refers to the rules and regulations, which
19 it discusses; and those regulations are given in
20 defense documents 1335 and 1337, which follow in our
21 order of proof.

22 It has been the practice throughout the trial
23 for both the prosecution and the defense to present
24 witnesses who could discuss the actual operation and
25 interpretation of the laws which they administered.

1 ACTING PRESIDENT: The regulations have been
2 introduced in evidence, have they not?

3 MR. COLE: I think not, sir. We propose to
4 introduce them.

5 ACTING PRESIDENT: By a majority, the objection
6 is sustained.

7 MR. COLE: May the witness be excused, sir?

8 ACTING PRESIDENT: He is excused on the usual
9 terms.

10 (Whereupon, the witness was excused.)

11 MR. COLE: We offer in evidence documents
12 1335 and 1337, 1335 being Regulations for the Enforce-
13 ment of the Army Officers' Service Ordinance; 1337
14 being Regulations Concerning Personal Matters of Army
15 Officers.

16 MR. LOPEZ: As general phase matters, defense
17 documents 1337 and 1335 are objected to.

18 MR. COLE: Our answer to that, sir, is merely
19 what I said before: that the prosecution has made a
20 particular issue in MUTO's case alone in regard to
21 resignation.
22

23 ACTING PRESIDENT: The objection is overruled
24 and the documents will be admitted.

25 CLERK OF THE COURT: Defense document 1335
will receive exhibit No. 3448; defense document 1337

1 will receive exhibit No. 3449.

2 (Whereupon, the documents above
3 referred to were marked defense exhibits
4 No. 3448 and 3449, respectively, and re-
5 ceived in evidence.)

6 MR. COLE: I respectfully refer the Tribunal's
7 attention to the following passages:

8 In exhibit 3448, Article 5, complete.

9 In exhibit 3449, Articles II and III.

10 We call as our next witness, OHIRA, Hideo.

11 ACTING PRESIDENT: Before you call the witness,
12 we will take our recess.

13 (Whereupon, at 1045, a recess was
14 taken until 1100, after which the proceedings
15 were resumed as follows:)
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MAKSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Cole.

MR. COLE: I call as our next witness
OHIRA, Hideo.

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H I D E O O H I R A, called as a witness on behalf
of the defense, being first duly sworn, testified
through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. COLE:

Q Mr. Witness, please state your name and
present address.

A My name is OHIRA, Hideo; my address 2975,
5-Chome, Setagaya, Setagaya-ku, Tokyo.

MR. COLE: I ask that the witness be shown
defense document 2779.

(Whereupon, a document was handed to
the witness.)

Q Mr. Witness, is that your affidavit, signed
and sworn to by yourself?

A Yes, it is.

Q Are all the matters discussed therein true
to the best of your knowledge and belief?

A They are true.

1 MR. COLE: We offer defense document 2779
2 in evidence.

3 ACTING PRESIDENT: Admitted on the usual
4 terms.

5 CLERK OF THE COURT: Defense document 2779
6 will receive exhibit No. 3450.

7 (Whereupon, the document above re-
8 ferred to was marked defense exhibit No. 3450
9 and received in evidence.)

10 MR. COLE: I omit the formal parts:

11 "1. My name is OHIRA, Hideo. I was formerly
12 a Major-General of the Japanese Army. From 14 April
13 1943 to 1 April 1944 I was the Chief of Staff of the
14 Second Imperial Guard Division which was stationed
15 in Sumatra, under Lieutenant-General MUTO, Akira.
16 From then until immediately before the end of the war,
17 I was a staff officer of the 25th Army.

18 "2. While Lieutenant-General MUTO was in
19 that position, the garrison-area under the Imperial
20 Guard Division (from 1 June 1943, it was called the
21 Second Imperial Guard Division) was gradually reduced
22 as stated below:

23 "a. From the outbreak of war to April 1943:
24 Western Coast Province of Sumatra, Rio Province,
25 Tapanori Province, Eastern Coast Province and Acjie

1 Province.

2 "b. From May 1943: Tapanori Province,
3 Eastern Coast Province and Acjie Province.

4 "c. From January 1944: Eastern Coast
5 Province and Acjie Province.

6 "3. The Commander of the Imperial Guard
7 Division had nothing to do with the military
8 administration established in the garrison-area. The
9 commander was authorized only to give necessary
10 instructions as to defense, and only when the garrison-
11 area might be attacked by the enemy.

12 "4. With regard to the treatment of prisoners
13 of war in Sumatra, I heard that, in the early stage
14 of the war, the temporary POW camp was established
15 by the Imperial Guard Division which occupied the area.
16 In the meantime, however, administration of the prisoners
17 of war was taken over by the personnel whom the
18 Commander of the 25th Army at Singapore despatched
19 directly. And about July 1942 the POW camp was built
20 according to an order from Tokyo. Lieutenant-General
21 LUTO arrived at Medan to take command about 11 May
22 1942. Thus, at that time, the Administration of the
23 POW camp was already not in the hands of the
24 commander of the Imperial Guard Division. The POW
25 camp, from that time on, was administered as a branch

1 of the Malay POW camp at Singapore, which was under
2 the General Headquarters of the Japanese Army of
3 the South. The commander of the Second Imperial
4 Guard Division had nothing to do with the administration
5 of the POW camp in the garrison-area of the division.

6 "5. With regard to the administration of
7 the civilian internees' camps, the governor of the
8 province, an official of the military government
9 organization, was in charge of them. The military
10 government was also responsible for the guarding
11 of these internees' camps. However, when a request
12 was made for help, owing to the shortage of personnel,
13 the commander of the Second Imperial Guard Division
14 made it a rule to comply. Thereafter, from 1 April
15 1944, the headquarters of the 25th Army directly
16 administered these civilian internees' camps. At
17 the same time, the Second Imperial Guard Division
18 had been put under an obligation to assist the head-
19 quarters in the construction of the camps, and as to
20 supplies. However, as stated above, the division
21 had not been responsible at all for the administration
22 of these camps.

23 "6. In this last paragraph I would like to
24 make a statement about the military discipline and
25 morale of the soldiers of the Imperial Guard Division.

1 Originally the principal duties of this division
2 were to guard the Imperial Palace and to escort
3 the Emperor. It was composed of excellent young
4 men chosen from all over Japan. The statistics regard-
5 ing crime in the army at that time indicated that
6 the 25th Army was the one whose discipline was the
7 most strict and that, of all units, under the 25th
8 Army, the Second Imperial Guard Division gave the best
9 showing. I have no recollection of any complaint
10 brought to me by the Military Government organization
11 or from the native inhabitants regarding any mis-
12 conduct of members of the Imperial Guard Division."

13 You may cross-examine.

14 MR. LOPEZ: No cross-examination, if your
15 Honor please.

16 MR. COLE: May the witness be excused on
17 the usual terms?

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

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1 Originally the principal duties of this division
2 were to guard the Imperial Palace and to escort
3 the Emperor. It was composed of excellent young
4 men chosen from all over Japan. The statistics regard-
5 ing crime in the army at that time indicated that
6 the 25th Army was the one whose discipline was the
7 most strict and that, of all units, under the 25th
8 Army, the Second Imperial Guard Division gave the best
9 showing. I have no recollection of any complaint
10 brought to me by the Military Government organization
11 or from the native inhabitants regarding any mis-
12 conduct of members of the Imperial Guard Division."

13 You may cross-examine.

14 MR. LOPEZ: No cross-examination, if your
15 Honor please.

16 MR. COLE: May the witness be excused on
17 the usual terms?

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

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1 MR. COLE: I now offer in evidence the
2 sworn deposition of KUMEGAWA, Yoshiharu, together
3 with a telegram from his doctor stating that
4 KUMEGAWA is unable to appear before the Tribunal
5 at this time. We obtained the telegram because
6 the illness of the witness was so sudden, but we
7 later obtained a written certificate which there-
8 fore has been added.

9 Since a great deal of emphasis has been
10 put on the situation in the Philippines in the
11 months prior to the surrender, we consider it of
12 the utmost importance to make clear the state of
13 confusion and chaos during which the alleged
14 atrocities occurred and the utter impossibility,
15 on the part of this accused, of knowing of or pre-
16 venting such alleged acts. We appreciate that this
17 Tribunal does not wish to go into unnecessary detail
18 with regard to tactical matters, and we feel that
19 this affidavit gives briefly the main and important
20 facts of a complicated situation, a full understand-
21 ing of which is vital to our defense.

22 MR. LOPEZ: If the Tribunal please, objec-
23 tion is made on the ground that the witness is not
24 made available for cross-examination. We merely
25 advert the attention of the Tribunal to the long

1 argument that was advanced, pro and con, during the
2 discussion of similar matters on defense document
3 2786.

4 Even if he were available for cross-
5 examination, the entire affidavit is objected to
6 on the ground that it should have been introduced
7 in the general phase. The whole purport of the
8 affidavit is to show that both General YAMASHITA
9 and General MUTO were ignorant of and had nothing
10 to do with the atrocities in the Philippines.

11 The last paragraph on page 5 of the defense'
12 opening statement of MUTO reads:

13 "The alleged atrocities were committed
14 without the slightest knowledge or approval of either
15 YAMASHITA or this accused by troops which were out-
16 side YAMASHITA's power to command. MUTO was not in
17 a position to suppress them, although he did all
18 that could be done. This point has already been
19 testified to by KOBAYASHI, Shujiro, and other wit-
20 nesses in the general phase." And, continues the
21 opening statement: "We will offer in support of our
22 contention another witness who was a member of the
23 Japanese staff in the Philippines."

24 Thus, it is obvious to this honorable Tri-
25 bunal that this matter was thoroughly covered in the

1 argument that was advanced, pro and con, during the
2 discussion of similar matters on defense document
3 2786.

4 Even if he were available for cross-
5 examination, the entire affidavit is objected to
6 on the ground that it should have been introduced
7 in the general phase. The whole purport of the
8 affidavit is to show that both General YAMASHITA
9 and General MUTO were ignorant of and had nothing
10 to do with the atrocities in the Philippines.

11 The last paragraph on page 5 of the defense'
12 opening statement of MUTO reads:

13 "The alleged atrocities were committed
14 without the slightest knowledge or approval of either
15 YAMASHITA or this accused by troops which were out-
16 side YAMASHITA's power to command. MUTO was not in
17 a position to suppress them, although he did all
18 that could be done. This point has already been
19 testified to by KOBAYASHI, Shujiro, and other wit-
20 nesses in the general phase." And, continues the
21 opening statement: "We will offer in support of our
22 contention another witness who was a member of the
23 Japanese staff in the Philippines."

24 Thus, it is obvious to this honorable Tri-
25 bunal that this matter was thoroughly covered in the

1 general phase.

2 MR. COLE: May it please the Tribunal,
3 may I comment on the first objection first, that is,
4 in regard to the witness' present unavailability.
5 As I stated before, the witness' illness was sudden.
6 and we obtained a certificate by telegraph. The
7 follow-up certificate states that the witness will
8 not be available for sixty days. Beyond that, I
9 have no further comment except to observe that his
10 present location is in Shikoku, which is one of the
11 south-westerly Japanese islands.

12 With regard to the objection that this
13 affidavit should have been offered in the general
14 phase, counsel has already pretty well given my
15 answer by saying that the affidavit is concerned
16 almost completely with the actions of YAMASHITA and
17 General MUTO. Those matters which might conceivably
18 affect other defendants were presented and covered
19 in the general phase, but prosecution will hardly
20 contend, I believe, that any other defendant is con-
21 cerned as intimately as General MUTO in the military
22 situation around Manila. That fact, if I may say so,
23 sir, is borne out in my mind by the very fact that
24 Mr. Lopez is the one assigned to this particular
25 part of the case.

1 ACTING PRESIDENT: If this man is recalled
2 as a witness, does the prosecution intend to cross-
3 examine him?

4 MR. LOPEZ: No.

5 ACTING PRESIDENT: By a majority vote of
6 the Court, the objection is overruled. The docu-
7 ment will be admitted.

8 CLERK OF THE COURT: Defense document 2685
9 will receive exhibit No. 3451.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 3451 and received in evidence.)

13 MR. COLE: Omitting the formal portions:

14 "1. I, KUEGAWA, Yoshiharu, live at
15 Onakadai-Machi, Chiba City and am 46 years old.

16 "2. At the time of the termination of the
17 war, I was a colonel and a staff officer of the 14th
18 Area Army.

19 "3. On December 22 of the 19th year of
20 Showa (1944), I arrived at my post in the Philippine
21 Islands, as a staff officer to General YAMASHITA,
22 the Commander of the 14th Area Army. I was appointed
23 the Senior Staff Officer, in charge of the Tactical
24 Affairs Section, succeeding Colonel KOBAYASHI who
25 was then attached to the Shinbu Group. From then

1 and until the termination of the war, I was in
2 office in the Headquarters of the said Army and was,
3 nearly all the time, in the same place as General
4 YAMASHITO and Chief of Staff MUTO, with whom I was
5 closely connected. I will make a statement as
6 mentioned below, according to my firsthand knowledge,
7 on the intention and actions of the Army Commander
8 and on the actions of Chief of Staff MUTO concern-
9 ing the Luzon operations.

10 "4. When I arrived at Manila on December
11 22 of the 19th year of Showa (1944), the Head-
12 quarters of General YAMASHITA was located at Fort
13 McKinley. At that time, a part of the U. S. Army
14 had already landed at San Jose (about 250 kilometers
15 south of Manila), Mindoro Island. General lines of
16 our operations in Luzon Island were decided and every
17 unit was successively moving to each allotted
18 position. General YAMASHITA, in consideration of
19 the future operations in Luzon Island, moved his
20 Headquarters to Ipo, approximately 30 kilometers
21 north-northeast of Manila, on December 26. As a
22 result, General YAMASHITA and Chief of Staff MUTO
23 never stayed in the city of Manila.

24 "5. At that time the Japanese Army in
25 Luzon was a small force, poorly equipped, short of

1 maneuvering power and, especially lacking in air
2 force. The U. S. Army, on the other hand, was
3 absolutely predominant in air force and superior
4 in firing power and equipment, and had a great
5 maneuvering power. Such being the case, the U. S.
6 forces could land at any point at their own choice.
7 The Commander of the Japanese Army, accordingly,
8 was at great pains to infer the landing points of
9 the U. S. forces.

10 "The Command, in view of the difference of
11 strength and equipment between our army and the
12 enemy, had the intention of evading decisive battles
13 on the plains and of carrying out a persistent
14 struggle, taking advantage of mountainous regions.
15 If, when the Japanese forces had been concentrated
16 in the vicinity of Manila, the U. S. Army should
17 have their main force put ashore in the Bay of
18 Lingaen, the Japanese forces would be forced to
19 fight in the plains, for which their equipment was
20 unfit, and be in danger of being destroyed in a
21 short time. Therefore, the Commander's program was
22 that Manila should be abandoned and the main force
23 should be located in northern Luzon, that the Japa-
24 nese forces in the vicinity of Manila should occupy
25 the mountainous region on the east of Manila, that

1 only the forces necessary to carry and escort war
2 supplies as well as to keep guard would be left in
3 the city of Manila and that the city should be
4 evacuated prior to the entry by the U. S. Army.

5 "In removing his Headquarters from Fort
6 McKinley to Ipo on December 26 of the 19th year of
7 Showa (1944), General YAMASHITA meant to inform his
8 men by his personal action of his idea of abandon-
9 ing Manila City and to hasten the snail-paced
10 exodus of the forces out of Manila as well as of
11 carrying munitions out of Manila.

12 "6. It goes without saying that Manila
13 City was the most important base in the Far East
14 for the U. S. Army. As regards Manila City itself,
15 however, there were a great number of wooden houses
16 much liable to take fire, the city was tactically
17 of little effective value due to the shallowness of
18 subterranean water and, besides, the million citizens
19 were suffering extremely from a shortage of provisions.
20 It appeared, accordingly, to be impossible to defend
21 the region, including the city.

22 "Besides, it was always in the mind of
23 General YAMASHITA that it was wrong to reduce the
24 sole civilized city in the Philippine Islands to
25 ashes by turning it into a field of battle. Chief

1 of Staff MUTC also insisted on abandonment of
2 Manila.

3 "Moreover, neither the Imperial Head-
4 quarters nor the Southern General Army ordered
5 Manila City to be defended to the last. The Luzon
6 operations were wholly left to General YAMASHITA's
7 strategy.

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"7. General YAMASHITA named the Japanese forces, which were to occupy the position in the mountainous region east of Manila, the Shimbu Group of which Lieutenant General YOKOYAMA, Shizuo was ordered to take command. And he dispatched one unit to the Batangas Peninsula, ordering it to hold in check the enemy's rush to Manila. Then General YAMASHITA removed the Headquarters to Baguio on January 4, 1945.

"8. General YAMASHITA was rigid in commanding the army. But the communication facilities of the Japanese army in the Philippine campaign were beyond all comparison inferior to those of the United States Army. Therefore, express delivery of communications was found, prior to the opening of the operations, to be difficult, owing to lowered level of ability of operators and intricacy of ciphers as well as to the fact that there existed only one wireless available in the principal direction. After the operations were opened the difficulty increased so extremely that only important commands or reports could be barely communicated and any detailed information was not reported at all.

"9. The naval forces were independent until the termination of the war. However, the naval units in Manila and other districts were respectively subjected to the army commanders in the districts concerned,

1 simultaneously with the opening of hostilities, so far
2 as land fighting was concerned. The naval unit in
3 Manila was placed under the command of Lieutenant
4 General YOKOYAMA on January 5, 1945. Nevertheless, the
5 fact was that General YAMASHITA was not acquainted with
6 the condition of the naval forces in detail during the
7 campaign. Besides, the air forces were not under the
8 command of General YAMASHITA as before after Field
9 Marshal TERAUCHI left Manila about the middle of Novem-
10 ber 1944. It was on January 1, 1945 that the air forces
11 were placed under his command for the first time.

12 "10. No report was made to the Area Army Head-
13 quarters of anyone in the Japanese Army having killed
14 Filipinos or ill-treated war prisoners. General
15 YAMASHITA and Chief of Staff MUTO were utterly ignorant
16 of such fact. General YAMASHITA, who had been in the
17 War Ministry for a long period, was conversant with
18 laws and regulations. He was also so rigid as to
19 military discipline that, had he been informed of such
20 a fact, he would have severely punished anyone concerned.
21 He never ordered murder or ill-treatment to be committed.

22 "11. General YAMASHITA and Chief of Staff MUTO
23 were always in the same place except when the latter
24 went out to inspect the front line now and then. At
25 Fort McKinley, the office of the Chief of Staff was

1 situated next to that of the Commander. At Baguio, the
2 two were in the same room. After the building was
3 bombed they lived in the same air-raid shelter. After
4 they moved to Banban toward the end of April, they used
5 one desk in common. Such being the case, Chief of Staff
6 MUTO was well aware of the plans of General YAMASHITA.
7 But when he happened to find anything uncertain in the
8 intention of the Commander, on the occasion, for instance,
9 of the meeting of the staff officers alone, he made it
10 a rule either to go to ask the Commander about it or
11 to reserve the decision and give instructions later on.

12 "12. The Chief of Staff was not invested with
13 the authority of deciding principal matters. Chief of
14 Staff MUTO was most faithful to this rule and gave no
15 order to any unit. There were some matters of routine
16 work which lay within the competence of the Chief of
17 Staff. As for such matters, the Commander often gave
18 his views as he shared the room with MUTO and heard
19 about such matters.

20 "General YAMASHITA was in such good health
21 that illness never prevented him from doing duty even
22 a single day."

23 I next offer in evidence defense documents
24 2805 and 2806. These are excerpts from General Marshall's
25 report, exhibit 2765. These very brief excerpts confirm

1 the matters described in the affidavit of KUMEGAWA, and
2 from a source which can hardly be questioned.

3 ACTING PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Defense document 2805 will
5 receive exhibit No. 3452. Defense document 2806 will
6 receive exhibit No. 3453.

7 (Whereupon, the documents above re-
8 ferred to were marked defense exhibit No.
9 3452 and No. 3453 respectively and received
10 in evidence.)

11 MR. COLE (Reading): "Excerpt from the book
12 entitled 'The Winning of the War in Europe and the
13 Pacific.' General Marshall's Report. Page 74:

14 "In the six days of the great naval action the
15 Japanese position in the Philippines had become ex-
16 tremely critical. Most of the serviceable elements of
17 the Japanese Navy had been committed to the battle with
18 disastrous results. The strike had miscarried, and
19 General MacArthur's land wedge was firmly implanted in
20 the vulnerable flank of the enemy. TERAUCHI no longer
21 had an effective fleet to cover his forces in the
22 Philippines or his communications to the empire of
23 Malaysia so easily conquered two-and one-half years
24 before. There were 260,000 Japanese troops scattered
25 over the Philippines but most of them might as well have

1 been on the other side of the world so far as the
2 enemy's ability to shift them to meet the American
3 thrusts was concerned. If General MacArthur succeeded
4 in establishing himself in the Visayas where he could
5 stage, exploit, and spread under cover of overwhelming
6 naval and air superiority, nothing could prevent him
7 from overrunning the Philippines."

8 Exhibit 3453:

9 "Pages 75 and 78:

10 "No opportunity was overlooked to conceal this
11 bold plan from the Japanese. While the assault force
12 was proceeding up the west coast of Luzon, Kenney's
13 planes and the guerrillas under MacArthur's direction
14 concentrated on the destruction of roads, bridges, and
15 tunnels to prevent General YAMASHITA from shifting forces
16 to meet the assault. The guerrillas in southern Luzon
17 conducted noisy demonstrations to divert Japanese atten-
18 tion to the south. Navy mine sweepers swept the Balayan,
19 Batangas, and Tayabas Bays on the south coast of Luzon.
20 Landing ships and merchantmen approached the beaches
21 until they drew fire, then slipped out under cover of
22 night. United States transport planes flew over
23 Batangas and Tayabas and dropped dummies to simulate an
24 airborne invasion. The Tokyo radio reported that
25 American troops were trying to land on Luzon but had

1 been driven off. Japanese forces on the island, har-
2 assed by guerillas and by air, drove north, south, east
3 and west in confusion, became tangled in traffic jams on
4 the roads, and generally dissipated what chance they
5 might have had to repel the landing force. On 9 January
6 the United States Sixth Army now composed of the I and
7 XIV Corps, hit the beaches in Lingayen Gulf. By night-
8 fall, 68,000 troops were ashore and in control of a
9 15-mile beachhead, 6,000 yards deep.

10 "The landing had caught every major hostile
11 combat unit in motion with the exception of the 23rd
12 Infantry Division to the southeast of the beachhead in
13 the central Luzon plain and its supporting 58th in-
14 dependent mixed brigade 25 miles to the north of
15 Lingayen Gulf. YAMASHITA's inability to cope with
16 General MacArthur's swift moves, his desired reaction
17 to the deception measures, the guerillas, and General
18 Kenney's aircraft combined to place the Japanese in an
19 impossible situation. The enemy was forced into a piece-
20 meal commitment of his troops. The Japanese 10th and
21 105th Divisions in the Manila area which were to secure
22 Highway No. 5 on the eastern edge of the central Luzon
23 plain failed to arrive in time. The brunt of defending
24 this withdrawal road to the north fell to the 2nd Japan-
25 ese Armored Division which seemingly should have been

1 defending the road to Clark Field."

2 We now call the accused MUTO who will testify
3 in his own behalf.

4 - - -

5 A K I R A M U T O, an accused, being first duly
6 sworn, testified through Japanese interpreters
7 as follows:

8 DIRECT EXAMINATION

9 BY MR. COLE:

10 Q You are the accused MUTO, Akira?

11 A Yes, I am.

12 MR. COLE: May I ask that General MUTO be
13 shown defense document 2679?

14 (Whereupon, a document was handed
15 to the witness.)

16 Q Is the document which you are examining your
17 sworn deposition, signed and sworn to by you?

18 A Yes.

19 Q I ask you whether all the matters discussed
20 therein are true to the best of your knowledge and be-
21 lief.

22 A The contents are all true.

23 MR. COLE: I offer defense document 2679 in
24 evidence.

25 ACTING PRESIDENT: Admitted on the usual terms.

1 CLERK OF THE COURT: Defense document 2679
will receive exhibit No. 3454.

2 (Whereupon, the document above re-
3 ferred to was marked defense exhibit No.
4 3454 and received in evidence.)

5 MR. COLE: Omitting the formal portions:

6 "1. From 1922, a lieutenant at that time, I
7 served at the office of Inspector General of Military
8 Training and was engaged in revision of drill manuals,
9 drill standards, etc., in accordance with changes in
10 tactics after the first World War. My service there
11 continued until 1929 though I became ill in January of
12 1928. From that time I was in poor health and spent
13 half of the year of 1929 on sick leave. In December of
14 the same year, however, I was ordered to enter the Staff
15 College as a post-graduate student. What is called the
16 post-graduate plan at the Staff College is the system
17 under which ten officers are selected from among majors
18 and lieutenant-colonels who have already graduated from
19 the college for the purpose of studying higher strategy
20 and tactics for one year. My rank at that time was that
21 of major. My assignment was to study the fundamental
22 thoughts of Clausewitz and SUNTZU in order to make a
23 comparison between European and Oriental thought in the
24 matters of tactics and strategy. Such being the case,
25

1 concerning the incident in which Field Marshal Chang,
2 So-lin was killed by a bomb at Mukden at that time, I
3 learned it only through newspapers.

4 "2. In November of 1930, I was attached to the
5 General Staff and ordered to serve at the 2nd Section
6 there, which corresponded to G-2 in the United States
7 Army. However, as I was still not in good health, I
8 took a more or less leisurely post at the European post
9 there. In August of 1931, I was transferred to the 1st
10 Section to do work on line of communications matters.
11 At that time, the Chief of the General Staff attempted
12 to revise the regulations concerning line of communica-
13 tions matters on the basis of experiences during the
14 First World War and, as the work was not yet finished,
15 he ordered me to make the compilation.

16 "Meanwhile, the so-called Manchurian Incident
17 broke out in September of the same year and the General
18 Staff was in a tension for a while. However, the strength
19 which was actually ordered to move was only one brigade,
20 despatched from Korea to reinforce the Kwantung Army,
21 so we, in the line of communications branch, were not
22 especially busy, and I could continue my work of compil-
23 ing the regulations on line of communications business.
24 My work continued to March 1932. On completion of my
25 work I was ordered to serve at the 2nd Branch again.

1 I learned that a society called 'Sakurakai' existed at
2 that time, but I was not a member of it, nor had I any-
3 thing to do with it.

4 "3. In March of 1934, I was transferred to the
5 1st Infantry Regiment. Prior to this, in August 1933,
6 I was promoted to lieutenant colonel. As it was pro-
7 vided that a regimental commander should be a colonel,
8 I acted there as an assistant for the regimental com-
9 mander.

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1 "4. Next, I was transferred to the Military
2 Administration Section, Military Affairs Bureau, War
3 Ministry, in March of 1935 and was there until June
4 of the following year, during which period, concu-
5 rently with my regular duties, I taught about army
6 institutions as a tutor in the Army College. During
7 this period an incident I especially remember was a
8 riot by young officers which broke out on February
9 26th of that year. They murdered several senior
10 statesmen and occupied the buildings of the War
11 Ministry, the General Staff, the Diet, the Metropol-
12 itan Police, etc. At that time I worked hard, day
13 and night, as a member of the staff of the War
14 Ministry, for suppression of the riot and dealing
15 with the aftermath of the incident. I further learned
16 that my name was listed in the second assassination
17 list afterwards. This was because I had hitherto
18 opposed the movement of the young officers.

19 "5. In June of 1936, I was appointed a staff
20 officer of the Kwantung Army and put in charge of
21 information as Chief of the Second Section, the
22 Operations Department of the same army. My service
23 as such staff officer continued up to March 1937 or
24 approximately eight months. In August of 1936 I was
25 promoted to colonel. TANAKA, Ryukichi, who has

1 appeared as a witness before this Tribunal, was at
2 that time my subordinate as a senior lieutenant colonel.

3 "6. In March 1937 I was transferred to the
4 General Staff and came to take charge of operation,
5 organization, etc., as Chief of the Second Section
6 under the command of the Chief of the First Division.
7 However, it was in the middle part of March that I
8 arrived at my post, when the operation plan for 1937
9 had already been drawn up. So I made a study of the
10 following year's plan.

11 "As to the operations plan concerning China at
12 that time -- in regard to that, I have found that my
13 answer to the interrogation made by the prosecutor
14 was incorrectly understood in that I was supposed to
15 have answered to the prosecutor as if there had been
16 at that time a unified operational plan for an over-all
17 war against China. The operational plan with regard to
18 China, as to which I spoke at the time, was the plan
19 for a partial despatch of armed forces to China for
20 protection of Japanese residents in North or Central
21 China. Therefore, when an incident broke out in North
22 China in July of 1937, the said plan could not be put
23 into practice. What the General Staff had planned was
24 merely reinforcement of the Japanese Stationing Forces
25 in China to protect Japanese residents in case an

1 appeared as a witness before this Tribunal, was at
2 that time my subordinate as a senior lieutenant colonel.

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4 General Staff and came to take charge of operation,
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19 for a partial despatch of armed forces to China for
20 protection of Japanese residents in North or Central
21 China. Therefore, when an incident broke out in North
22 China in July of 1937, the said plan could not be put
23 into practice. What the General Staff had planned was
24 merely reinforcement of the Japanese Stationing Forces
25 in China to protect Japanese residents in case an

1 incident broke out in and around Peking and Tientsin.
2 However, the situation was completely different, and
3 it became necessary to make another study of it. I
4 took these tasks by order of my director.

5 "7. In the latter part of October 1937, I went
6 to Shanghai under the order of the Chief of Staff, to
7 observe the military situation of the Japanese Expedi-
8 tionary Army there. While I was making this observation
9 trip there, around November 4, the Tenth Army, under
10 command of Lt. General YANAGAWA, landed at Hangchow Bay
11 according to the plan of the General Staff, and at the
12 same time the Headquarters of the Central Chinese Area
13 Army was established, and General MATSUI, the Commander
14 in Chief of the Expeditionary Army at Shanghai, came to
15 hold simultaneously the post of Commander in Chief of
16 the Central China Area Army and to command concurrently
17 the Expeditionary Army at Shanghai and the Tenth Army.
18 I was appointed an Assistant Chief of Staff for General
19 MATSUI without returning to Tokyo.

20 "The operations duties of General MATSUI were
21 to protect the lives and property of Japanese residents
22 by driving back the Chinese forces around Shanghai,
23 and the operational area was the delta in the east,
24 from the line connecting Fushan, Soochow and Chiahsing.
25 His duties were accomplished around 23 or 24 November.

1 "8. By that time, General MATSUI had not yet
2 been given the function of occupying Nanking. It was
3 the first of December that the order to occupy Nanking
4 was received from the Imperial Headquarters. Then
5 General MATSUI ordered the Expeditionary Army at
6 Shanghai and the Tenth Army to proceed to attack Nanking.
7 The headquarters of General MATSUI was in the suburbs
8 of Shanghai City, and went forward to Soochow around
9 5 December. It was around 7 December that the newly
10 appointed Commander in Chief took over, and General
11 MATSUI was relieved as Commander in Chief of the
12 Expeditionary Army at Shanghai and thus came to act
13 solely as Commander in Chief of the Central China Area
14 Army.

15 "Receiving, about 8 December, the report that
16 our vanguards had advanced over the line of Mapanshan
17 and were approaching Nanking, General MATSUI gave
18 orders as follows:

19 "(1) The first line shall remain within a
20 limit of 3 or 4 kilometers outside the city of Nanking.

21 "(2) In order to advise the guards in the city
22 of Nanking to surrender, leaflets would be scattered by
23 airplanes.

24 "(3) If the Chinese forces surrender, both
25 armies (the Expeditionary Army at Shanghai and the

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22 of Nanking to surrender, leaflets would be scattered by
23 airplanes.

24 "(3) If the Chinese forces surrender, both
25 armics (the Expeditionary Army at Shanghai and the

1 Tenth Army) shall have two or three battalions selected
2 from each division to enter the city of Nanking, and
3 they shall take charge of preserving public peace in
4 the areas allotted to them, and the main forces shall
5 remain outside the city of Nanking. Foreign rights and
6 interests, specially indicated, shall be protected.

7 "(4) In case the Chinese forces should not
8 surrender by noon of 10 December, the city of Nanking
9 shall be attacked; provided, however, that even in
10 such case the units to enter the city shall act in
11 accordance with the preceding items, maintain strict
12 military discipline and morale, and secure the public
13 peace quickly.

14 "These orders were delivered to the headquarters
15 of both armies by Chief of Staff TSUKADA, who went
16 personally to both offices, accompanied by two or
17 three staff officers. As the Chinese forces did not
18 surrender, the attack on Nanking was started from the
19 noon of the 10th and Japanese forces advanced into
20 Nanking over the castle-wall on the 13th.

21 "General MATSUI, who had already become ill at
22 Shanghai, was still not in good condition after he went
23 forward to Foochow, so I arranged to remain at Foochow,
24 making care of the General. However, he had to partici-
25 pate, as the Supreme Commander of the Army, with the

1 Supreme Commander of the Navy, in the formal entry to
2 be held on 17 December. Then an airfield was built
3 hurriedly in paddy-fields in the suburbs of Soochow,
4 and he went to Koujung by a small airplane on 15
5 December and then got to Tanshuichen by car.

6 "After the formal entry at Nanking was held on
7 17 December, General MATSUI heard for the first time
8 from Chief of Staff TSUKADA that most of the units had
9 entered the city against the commander's order; that,
10 following the entry of the units, plunder and rape
11 cases occurred there. Concerning this matter, it is
12 stated in the prosecutors' interrogatory to me that
13 General MATSUI had been blamed by his staff for these
14 cases, but this is complete misinterpretation. I meant
15 that General MATSUI himself got very angry at these
16 cases, by the honorific expression in Japanese as
17 follows: 'Sore o kiite MATSUI taisho ga okorareta.' (
18 (TN: This means 'General MATSUI got angry to hear it.')

19 "General MATSUI ordered both commanders to with-
20 draw promptly out of the city all forces except the
21 strength necessary for guard of Nanking, and strictly
22 to maintain military discipline and morale. I under-
23 stand that both commanders executed this order. How-
24 ever, the withdrawal of the units out of the city of
25 Nanking was delayed a little because Chinese forces

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2 be held on 17 December. Then an airfield was built
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20 draw promptly out of the city all forces except the
21 strength necessary for guard of Nanking, and strictly
22 to maintain military discipline and morale. I under-
23 stand that both commanders executed this order. How-
24 ever, the withdrawal of the units out of the city of
25 Nanking was delayed a little because Chinese forces

1 were burning buildings, calling such actions 'Cleaning
2 Operations'; and besides there was little water to
3 drink.

4 "My office, as mentioned above, was Assistant
5 Chief of Staff of the Central China Area Army. The
6 functions of Assistant Chief of Staff (which are
7 provided for in the Higher Headquarters Service Regu-
8 lations) were to assist the Chief of Staff and chiefly
9 to act as an intermediary to coordinate work of other
10 organs, etc. in replacement of personnel, supplies or
11 provisions, arms and ammunition, etc., so that these
12 matters might be carried out smoothly. The Assistant
13 Chief of Staff was partial assistant for the Chief of
14 Staff and had no power to make a decision at all.
15 Moreover, the duties were not to maintain military
16 discipline and morale. During my stay at Nanking I
17 made investigations, by order of the Chief of Staff,
18 on the camping capacity outside the city of Nanking,
19 and engaged in the work of withdrawing the soldiers
20 from the city.

21 "Now, as for General MITSUI, after he stayed
22 at Nanking for four or five days -- it was my wrong
23 recollection that I answered to the interrogation of
24 the prosecutor that he stayed there for a week -- he,
25 followed by staff officers, returned to the headquarters

1 at Shanghai about December 21. I also went back to
2 Shanghai. It was because he had another duty of
3 reducing Hangchow. After the formal entry at Nanking,
4 General YANAGAWA, the Commander of the Tenth Army,
5 turned and forwarded his army to Hangchow, and the
6 101st Division which remained near Shanghai was also
7 marching toward Hangchow. Therefore, General MATSUI
8 returned hurriedly to Shanghai to command these forces.
9 The Chinese forces at Hangchow retreated without
10 fighting, so Japanese forces captured it without
11 bloodshed about December 24.

12 "9. Towards the first part of February 1938,
13 the Imperial Headquarters reduced the strength of
14 Japanese forces in Central China to about six divisions,
15 abolished the Central China Area Army, the Expeditionary
16 Army at Shanghai and the Tenth Army, and left only
17 the Expeditionary Army in Central China. Then General
18 MATSUI, U.I.H. S.I.K., Lt. General YANAGAWA and a
19 majority of staff officers returned home and General
20 HATA came as the new Commander in Chief. I remained
21 there as Assistant Chief of Staff for General HATA.

22 "10. Early in July 1938 I was transferred to
23 the post of Vice Chief of Staff of the North China
24 Area Army, left the Central China Expeditionary Forces
25 and moved to Peiping. I remained at the post until

1 October 1939. Count 46 takes up the attack on Canton
2 on 21 October 1938 and charges me on this account.
3 However, the attack was carried out by a unit which
4 had no relation with the North China Area Army, and
5 I had no connection with it. The same can be said about
6 the attack on the city of Hankow which took place
7 around 27 October 1938 and which is mentioned in
8 Count 47. I had nothing to do with that, likewise.
9 The 'Khalkin-Gol' River case which occurred in the
10 summer of 1939 and which appears in Count 26 is a case
11 which I had no connection with, because it broke out
12 when I was still attached to the North China Area Army
13 in Peiping, and because it was carried out by a unit
14 which had no connection with the North China Area Army.

15 "11. In October 1939 I took office as Chief
16 of the Military Affairs Bureau of the War Ministry,
17 and, at the same time or immediately after, was appointed
18 Chief Secretary of the Supreme War Council and secre-
19 taries or councillors of about ten kinds. But these
20 concurrent posts were those which automatically
21 followed the position of the Chief of the Military
22 Affairs Bureau, and no special implications are
23 attached to it.

24 "I occupied the post of Chief of the Military
25 Affairs Bureau from October 1939 to April 1942, but

1 no changes were perceivable as for the duties of the
2 Military Affairs Bureau during this period. But in
3 July 1940, after the Second KONOYE Cabinet was formed,
4 the authority of the Cabinet Information Board was
5 strengthened, and such things as censorship of
6 matters connected with the Army, which had hitherto
7 been carried out by the Intelligence Division of the
8 War Ministry, were all transferred to the new Cabinet
9 Information Board."

10 ACTING PRESIDENT: This is a good place to stop.

11 We will adjourn until 1:30.

12 (Thereupon, at 1200, a recess
13 was taken.)
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AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: The Tribunal has appointed
the Honorable Mr. Justice Northcroft Commissioner to
take the testimony of ISHII, Akiho. The hearing will
be held at such time and place as the Commissioner
may designate.

Mr. Cole.

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~~A K I R A H U T O~~, an accused, resumed the stand

1 and testified through Japanese interpreters as
2 follows:

3 DIRECT EXAMINATION

4 MR. COLE: I continue reading with
5 paragraph 12:

6 "12. Even when I took office as the Chief
7 of the Military Affairs Bureau, I knew nothing of
8 political or diplomatic problems. However, as I had
9 previously served in Central and North China for about
10 two years, I had some opinions concerning Chinese
11 affairs. It was my tentative opinion that among the
12 five hundred million people in China, there was rising
13 a racial consciousness of tremendous vigor, and now
14 the China Incident was assuming the form of racial
15 war; that its nucleus was Mr. Chiang Kai-shek; that
16 the Chinese questions would not be solved with the
17 old views maintained regarding China by the so-called
18 experts on China; that the longer the China Incident
19 continued, the harder the settlement would be; that
20 we should work out at once a plan of solution to deal
21 with the Chiang regime, breaking the past impasse and
22 to harmonize the relations between Japan, the United
23 States and Britain.
24

25 "I had no special connections with the National

Policy Institute. Only from what my predecessor
1 told me, I regarded the institute as a middle-of-the-
2 road organization of intellectual civilians, bene-
3 ficial because it permitted knowing the opinions of
4 civilian circles. Although Mr. YATSUGI, the Chief
5 Secretary of the Institute Society, gave evidence
6 that I had addressed the institute a few times, this
7 is his erroneous memory. Never once did I show up
8 there to make an address. Indeed, I was asked time
9 and again to address the group after I returned from
10 China, but I refused. Only once -- I remember it was
11 around February or March 1940 I was invited to luncheon
12 by the leaders of the group, and went there. Then,
13 after lunch, I was strongly requested to speak some-
14 thing and stated my personal opinions concerning
15 China, for about ten minutes. This is the only time
16 when I have ever visited the institute. Concerning
17 the National Policy Institute, there was another
18 affair, which I shall mention. Though I do not
19 remember the date clearly, Baron OKURA paid a visit
20 to me in the autumn of 1941 and after explaining about
21 the financial difficulties of the National Policy
22 Institute, made a request for subsidies from the
23 Foreign, War and Navy Ministries. Then in accordance
24 with the procedure to be followed when we receive a
25

1 request of the kind, I told the Vice Minister about
2 it, and he approved it, and then the subsidies
3 amounting to ¥20,000 were granted. I do not know for
4 what purpose the money was used. Furthermore, I do
5 not know anything about the research documents on
6 the Greater East Asia Co-Prosperity Sphere, which
7 were prepared by the institute; and, of course, I have
8 never seen them. However, if such documents were
9 prepared, they must have been done after I left
10 Tokyo in April 1942.

11 "The Liaison Conference was a liaison con-
12 ference as the term denotes, the purpose of which was
13 to promote understanding between the government and
14 the Supreme Command and to bring about harmony between
15 government business and the Supreme Command. I attended
16 it in the capacity of a secretary. The secretary's
17 duties were to prepare and arrange for the Liaison
18 Conference topics for discussion, chosen by my superiors,
19 and, if necessary, to prepare explanatory notes or to
20 bring persons to explain. In the Liaison Conference,
21 when opinions of all the members were unanimous, they
22 were to sign the decisions, but the secretary had no
23 capacity to do so. I attended the Imperial Conference,
24 but that was also in the capacity of a secretary. The
25 secretary of the Imperial Conference had less business

1 than that of the Liaison Conference, and his duties
2 were merely to distribute to the seats of the
3 members the documents which were prepared by the
4 respective organs in charge.

5 "I also attended the Inquiry Commission
6 Conference of the Privy Council, but in the capacity
7 of an explainer. Primarily, policy matters were to
8 be explained by the Minister. However, in case the
9 explanation should go into details, necessitating
10 explanations of practical and technical nature, the
11 so-called explainer made the explanation on behalf
12 of the Minister. But, as a matter of fact, I never
13 made an explanation there.

14 "As stated above, I attended the Liaison
15 Conference, the Imperial Conference, and the Confer-
16 ence of the Privy Council as secretary or explainer,
17 but automatically, from duty, without any special
18 intent. If any reasons were to be forcibly sought, the
19 only reason would be that I was the Chief of the
20 Military Affairs Bureau. Whoever assumed the post of
21 the Chief of the Military Affairs Bureau, had to at-
22 tend these conferences. I never took part in the
23 discussions, and, of course, I was not to sign any
24 decisions reached there.

25 "13. Exhibit No. 2243 presented by the

1 International Prosecution Section is an excerpt from
2 the articles which reported the address delivered by
3 me in the Committee of Accounts of the Diet on March
4 20, 1940. It is, however, quite different from what
5 I said. First of all, its title was quite different
6 from its contents, and so I will give an account of
7 the circumstances at the time.

8 "The Committee of Accounts consisted of ten
9 members. The Chief of the Accountant's Bureau was
10 accustomed to take charge of its explanation, but
11 one of those members called for the Minister's
12 attendance. When they were informed that the War
13 Minister had just attended the Committee of Budgets,
14 it was said that it was quite enough if the Chief of
15 the Military Affairs Bureau would attend in his stead.
16 For this reason, I attended the committee.

17 "As Mr. HATAJI, a member of the Diet, de-
18 livered an eloquent address from a draft he had pre-
19 pared, I made a reply.

20 "The prosecutors charged that my answer
21 showed disapproval of political parties, denial of
22 liberalism and insistence on totalitarianism.

23 "I was of the opinion that, as can be seen
24 in the shorthand records of proceedings (Defense
25 document #2734), political parties, officials and

1 professional officers should go shoulder to shoulder,
2 thus to tide over the national crisis. Far from
3 opposing political parties, I was earnestly hoping
4 for their sound development.

5 "What Mr. HAMAJI said then was that we should
6 adopt 'totalitarianism.' On the contrary, I replied
7 that totalitarianism indeed prevailed over Europe, but
8 we Japanese should be based on the idea of national
9 polity or national constitution proper to this country.
10 I stated that, though my ignorance prevented me from
11 expressing it accurately, the term 'kokutaishugi,'
12 that is, the principle of Japanese national constitu-
13 tion or national policy, would in all probability hold
14 good in this country.

15 "In regard to the denial of liberalism, I
16 replied that inasmuch as the erroneous liberalism
17 based on the selfish individualism should be done
18 away with at a time when our nation was confronted with
19 a crisis, we should not strive for our own interests
20 so much as for the advantages of our country.

21 "In addition to this, though Mr. HAMAJI
22 bluntly criticized officials, the military, and the
23 political parties, I replied that what must be reformed
24 on due reflection must be reformed, adding that as we
25 had willingness to introspect regarding reforms, what

1 was worthwhile to reform among the Army's attitudes,
2 we wished them to speak out whatever fault it might
3 be. In response to my answer as mentioned above, he
4 expressed gratitude, stating that he was much de-
5 lighted to find plainly these opinions on the part of
6 the Army.

7 "14. I engaged myself under instruction of
8 the War Minister, on routine work in the Japanese-
9 American negotiations. I deemed it necessary to lead
10 the United States-Japanese negotiations to a success-
11 ful conclusion; the reason had a close bearing on the
12 fact that I inferred that the Japanese people, who had
13 been called upon to tighten their belts ever since the
14 Manchurian Incident, were fed up with the China Inci-
15 dent.

16 "Japan was impatient for a speedy winding up
17 of the incident, but to our great regret, we found the
18 joint assistance given by the U.S.A. and Great Britain
19 to the Chungking regime had prevented us from doing
20 so. If matters should be left to take their own course,
21 Japan had no other way but to be faced with a grave
22 crisis. If, however, the United States-Japanese
23 negotiations should be brought to a successful con-
24 clusion, to the contrary, the relations among Japan,
25 Britain and the United States would not only be

1 adjusted, but what is still better, the China Incident
2 would come to a settlement; (thus, Japan would be
3 saved).

4 "The possibility of a successful conclusion
5 of the negotiations sometimes changed for better or
6 for worse, but nonetheless we cherished a gleam of
7 hope until the end of November, 1941.

8 "The Army's opinion regarding the Japanese-
9 American negotiations was framed by mutual agreement
10 between the War Minister and the Chief of the General
11 Staff. The decision was not, therefore, solely at the
12 hand of the War Minister. It was because of the pecu-
13 liarity of the structure of the Army. In other words,
14 when the Army disclosed its views on foreign policies,
15 it did so from the angle of national defense and
16 military tactics. The General Staff Office studied and
17 made plans on the basis of the international news and
18 information collected by them. The War Minister,
19 having no such international intelligence organs,
20 made his arguments chiefly from the angles of home
21 politics, budget and materials. Only when the views
22 of both sides were in agreement, was the opinion
23 regarded as the foreign policy of the Army.

24 "Concerning the problems which happened
25 during the course of the negotiations, the General

1 Staff and the War Minister often disagreed.

2 "The liaison business between the War
3 Ministry and the Foreign Office was done through the
4 Chief of the Military Affairs Bureau and the Chief
5 of the American Section of the Foreign Office. On
6 that occasion, if the War Ministry's opinion was at
7 divergence with that of the Foreign Office and the
8 Naval Ministry, we used to study the opinion of the
9 Army again from the beginning. Not a few times I
10 made concessions within the scope of my duties on
11 the occasions of conferences with the Naval Ministry
12 and the Foreign Office. Especially about August 1941,
13 when Japan made concessions one by one to America, I
14 think I made such concessions. War Minister TOJO
15 never reprimanded me for these compromises, although
16 I was reprimanded sometimes by Minister TOJO on other
17 matters, while I was always protested to by the
18 General Staff. It was not rare that I was summoned to
19 the General Staff Office and was required to make ex-
20 planations. During the reverses and vicissitudes of
21 the United States-Japan negotiations, public opinion
22 became very strong; and some persons, including
23 myself, were in danger of assassination. It was at
24 this time that I was given a special military police
25 guard, as was testified by TANAKA, Ryukichi.

1 "15. On October 12, 1941, at KONOYE's resi-
2 dence in Ogiyama, a discussion was held concerning
3 the prospect of the Japan-American Conference by
4 the Prime Minister, War Minister, Navy Minister,
5 Foreign Minister, etc. I knew the fact on the fol-
6 lowing day. When the same problem was again discus-
7 sed at the Cabinet Conference on 14 October, Minister
8 TOJO had contended he would not make any bit of con-
9 cession concerning the problem of military occupa-
10 tion of China in the Japan-American Conference;
11 that is to say, the decision of the Council in the
12 presence of the Emperor on 6 September could not be
13 altered, which caused a headlong collision between
14 TOJO and Premier KONOYE as well as Foreign Minister
15 TOYODA. And so the resignation of the Cabinet en
16 bloc was said to be probable. I also learned that
17 Naval Minister OIKAWA had expressed his desire to
18 leave all the matters in the hands of the Premier.
19 I lost no time in getting in touch with the General
20 Staff Office and made a query as follows: The Naval
21 Minister's proposal of leaving the matters all in
22 the hand of the Premier might be interpreted as the
23 Naval Ministry's evasion of opening hostilities, hav-
24 ing altered the September decision. Whether the Army
25 should also have to alter its attitude, considering

1 the Navy's main part to be played in the war against
2 America, the answer given by the General Staff Of-
3 fice was that it would not change its attitude, as
4 the Naval Staff Office was not inclined to change
5 the September 6 decision any more than ever.

6 "at this, I guessed that the issue was the
7 divergence of opinion between the Government and the
8 Supreme Command, and if so, the question would re-
9 main as ever unsettled, even if the KONOYE Cabinet
10 should resign en bloc. So long as the question lies
11 there, it could not be settled, no matter how often
12 the Cabinet should be changed. Premier KONOYE
13 should assume the responsibility of solving the
14 problem by himself rather than resigning. To this
15 end, it was necessary for the Naval Minister to
16 disclose his real intention. Thus, War Minister
17 TOJO would be able to obtain the understanding of
18 the General Staff Office. These were my thoughts
19 at that moment. Then I called on Chief Secretary
20 TOJITA in the afternoon of the 14th of the same
21 month and told him my views as stated above, for
22 half an hour, desiring his tactful handling of the
23 matter. But the attempt to get the Naval Ministry to
24 express their wish against war proved unsuccessful
25 after all. This was immediately reported to War

1 Minister TOJO.

2 "16. According to the testimony of Lieut-
3 enant General TANAKA, Shinichi, the operations plan
4 which the General Staff maps out cannot be determined
5 without the consent of the War Minister. It might
6 be so interpreted, but really it is not so. As a
7 matter of fact, the operations plan is the most
8 important duty of the General Staff, and the War
9 Minister cannot interfere with the plan itself. Only
10 it is a question whether or not the War Minister can
11 provide the personnel, materials and money necessary
12 for making the plan practical. If the War Minister
13 cannot guarantee the execution of their request, the
14 General Staff makes new plans so far as the War
15 Minister can give his assurance. The operations plan
16 is, naturally, apt to be an idealistic one, so that
17 it is quite usual that the personnel and materials
18 it requires should be so big that the War Minister
19 cannot meet the original plan.
20

21 "General TANAKA, Shinichi, also testified
22 that the War Minister, War Vice Minister and Direct-
23 ors of Bureaus signed the order which the Chief of
24 the General Staff issued to the front line units to
25 be prepared for war. The Chief of the General Staff
has the authority to give order to front line units

1 to be prepared for war, but from the viewpoint of
2 diplomacy and supply of material, it is necessary to
3 inform that fact to the War Ministry. In order to
4 speed up the procedure, therefore, it was the rule to
5 send up a draft of telegram to the War Ministry to
6 obtain signatures of the officers concerned. Gen-
7 eral TANAKA testified to this fact. But whether the
8 signature and seal of the Military Affairs Bureau
9 Chief is on it has no decisive meaning, as TANAKA's
10 testimony shows.

11 "17. The Conference of Directors of Bureaus
12 is a meeting in the War Ministry, in which each
13 Director reports to the Minister and Vice Minister
14 the present state of business in his charge and
15 makes it known to the others, thus to smooth the
16 liaison of business. In order to get the Minister's
17 sanction on some matters, it was the general rule
18 that a Director of Bureau should, at first, obtain
19 approval of the Vice Minister and then present
20 them to the Minister for his sanction. But there
21 were some cases where the Minister orally passed
22 decision on some matters at the aforesaid Conference,
23 and in such cases it was the rule to submit documents
24 afterwards for formal sanction.

25 "Since August, 1941 I sometimes reported

1 the progress of Japanese-American negotiations at
2 the Conference. However, at the Conference I only
3 reported what had been determined in the Liaison
4 Conference or in the Conference in the Imperial
5 presence, and never have I stated my own opinion.
6 It was testified by TANAKA, Ryukichi, that at the
7 Directors' Conference about November 29, 1941, I had
8 expressed my opinion about the interruption of the
9 U.S.-Japan negotiations after the receipt of the
10 Hull note on 26 November. I deny it absolutely.

11 "18. TANAKA testified that the control of
12 newspapers was one of the functions of the Informa-
13 tion Section of the Bureau of Military Affairs, but
14 this is not correct. The Information Section be-
15 longed to the Imperial Headquarters, and the Bureau
16 of Military Affairs merely took charge of editing
17 the 'Tsuwanonon,' a weekly for the Army, and the
18 supervision of compiling occasional pamphlets. The
19 information Section came into being after the Imper-
20 ial Headquarters was established in December, 1937;
21 and it was made to belong to the Headquarters, and
22 so it was not under the Chief of the Bureau of Mili-
23 tary Affairs. In the Ministry of War, however, the
24 Intelligence Division was still left, though reduced.
25 As the building of the Imperial Headquarters, the

1 General Staff Office, was small, the above-mentioned
2 Information Section of the Imperial Headquarters was
3 located in the building of the Ministry of War, to-
4 gether with the Intelligence Division of the Ministry
5 of War. Perhaps this misled TANAKA to the aforesaid
6 statement. Moreover, soon after the second KONOYE
7 Cabinet was organized, all the censorship and con-
8 trol of the newspapers and magazines relating to the
9 Army, of which the Intelligence Division of the
10 Ministry of War had been taking charge, came to be
11 administered in the Bureau of Intelligence of the
12 Cabinet. Announcement of the situations of war from
13 time to time and the propaganda towards the enemy
14 were the functions of the Information Section of
15 the Imperial Headquarters.

16 "As I stated above, the Chief of the Infor-
17 mation Section of the Imperial Headquarters was not
18 at all controlled as such by the Chief of the Bureau
19 of Military Affairs, but as to editing the 'Tsuwa-
20 mono,' above-mentioned military weekly, and compila-
21 tion of the pamphlets, explaining the current topics
22 for the use of military education, he was under the
23 Chief of the Bureau of Military Affairs, as the
24 Chief of the Intelligence Division of the Ministry
25 of War.

1 "19. TANAKA, Ryukichi, former Chief of
2 the Military Service Bureau, testified that when I
3 sat with him at a luncheon or a banquet, I talked
4 with him about international problems. But at such
5 a meeting I was never inclined to take up a serious
6 problem and discuss it. I never talked seriously
7 with him on any occasion about such problems; such
8 less did I say that Japan, under the conclusion of
9 the Tripartite Alliance, must establish a new order
10 in East Asia in concert with the attempt of Germany
11 and Italy to build up a new order in Europe. In this
12 connection, TANAKA himself admitted in this Court that
13 he had not heard anything about it from me.

14 He, however, testified that in the Military
15 Affairs Bureau there had existed a consistent view
16 or policy favoring the Tripartite Alliance since
17 the ABE Cabinet, and that he was aware of it by
18 taking a side-view as Chief of the Bureau or the
19 Section of Military Service. (But TANAKA could not
20 show on what grounds he came to such a conclusion.)
21 I entirely deny his statement. It was in the middle
22 of October, 1939, that is, at the time of the ABE
23 Cabinet, that I took office as Chief of the Military
24 Bureau. What I then learned was that at the time
25 of the HIRANUMA Cabinet, before the ABE Cabinet, the

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1 Army hoped for the conclusion of the tripartite Al-
2 liance between Japan, Germany and Italy and made an
3 effort to materialize it, but it resulted in failure
4 owing to the non-aggression pact concluded between
5 Germany and the Soviet Union. Japan's feeling at
6 that time was that she had been deceived by Germany
7 and that such upstarts as Hitler and Mussolini could
8 not be trusted. I am one of those who thought so.

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1 "My opinion regarding Germany and Italy was
2 that the national strength of those states was not as
3 strong as was propagated; (that Hitler was but a
4 first-grade private in the First World War and
5 Mussolini was then a sergeant); that whatever a bold
6 attempt they might make, and even if they should fail
7 in it, they could be satisfied with it, as it could
8 make them heroes of the age, while such was not
9 applicable to the Japanese statesmen; and that if
10 once they failed, they would spoil the glory of a
11 national polity having a history of three thousand
12 years; and that for this reason, it was dangerous for
13 Japan to conclude an alliance with Hitler and Mussolini.
14 Whenever I talked with advocates for concluding the
15 Tripartite Alliance, I told them the above-mentioned
16 opinion of mine. Once, when I told it to a German
17 aviation officer, Colonel Groner, he nodded with a
18 smile, for he was not a member of the Nazi Party.

19 "September 1939 war broke out between Britain
20 and Germany. In the latter part of May of the next
21 year, Germany won the victory of Dunkirk by so-called
22 lightning operations. At that time it was generally
23 believed among the Japanese that Germany would get the
24 final victory. Again prevailed the advocacy among
25 such people for concluding the Tripartite Alliance.

1 But I predicted that the war between Britain and
2 Germany would prove to be a protracted one, so I
3 doubted that Germany would get the final victory.
4 There were many reasons for it. Speaking first of
5 Germany, the following reasons could be mentioned:
6 that the German air force was not as sufficient as
7 was propagated; that Germany had not preparations
8 enough to cross the Strait; that her naval force was
9 inferior to that of Great Britain. As for Britain,
10 there were the following factors: Britain's naval
11 strength was overwhelmingly superior to that of
12 Germany; according to reports of Lieutenant General
13 TATSUMI, the British people held a rather calm
14 attitude; Premier Churchill frankly admitted Britain's
15 'Defeat at Dunkirk'; the United States would give her
16 positive help to Britain. Summing up these points,
17 the conclusion I came to was that the advance of the
18 German forces would come to a stop on the coastline,
19 and while they remained there, Britain would find time
20 enough to make a rally; in the long run, Hitler would
21 come to fail in conquering Britain, just as Napoleon
22 had failed. On this point, I frequently talked with
23 Colonel IWAKURO, Chief of the War Affairs Section.
24 He, I think, is well aware of this talk of mine.
25

1 "20. TANAKA, Ryukichi, testified that the
2 resignation en bloc of the YONAI Cabinet was due to
3 the fact that HATA, Minister of War, offered a pro-
4 posal regarding the conclusion of the Tripartite
5 Alliance (which TANAKA said was supported by the
6 Military Affairs Bureau) but it did not come to a
7 unanimous agreement, so that HATA resigned. It was,
8 however, quite wrong. There was no request during
9 HATA's tenure of office that the government conclude
10 the Tripartite Alliance. The YONAI Cabinet adopted
11 a policy not to intervene in the European War, and
12 HATA, Minister of War, also supported it. Then, why
13 did HATA tender his resignation which caused the
14 YONAI Cabinet to resign en bloc? That was due to
15 the following circumstance: At that time, the General
16 Staff was so eager for settling the China Affair as
17 soon as possible that it offered a proposal to have
18 Germany intervene between us, and further urged the
19 War Minister to solidify the national structure in
20 order to cope with any possible situation in world
21 events. To these demands of the General Staff, the
22 YONAI Cabinet did not return any earnest response.
23 Prince KONOYE, who at that time resigned his position
24 as President of the Privy Council, started a new party
25 movement with a view to improving internal affairs.

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"The enhanced YONAI Cabinet became all the more unpopular with the public. Just at that time, for about ten days between the latter part of June 1940 and the beginning of July of that year, I was away from the War Ministry because I served on a reception committee for the Manchukuo Emperor. Then I came back to the Ministry, when I saw official correspondence sent to the War Minister from the Chief of the General Staff, to the effect that a proper step should be taken to tide over the emergency. It was an expression of a very strong intention that such a form was used in dealing with those matters.

"HATA, Minister of War, was very anxious to solve the matter as mentioned above, but it did not go as expected, and he was placed in a delicate position between the General Staff Office and the Government, and at last was obliged to resign. As far as I knew, his resignation was not at all due to disagreement regarding the conclusion of the Tripartite Alliance.

"21. Interviews with foreign military attaches was one of the duties of the Military Affairs Bureau. Hence, I frequently received a call from them. As for the talk that is indicated in exhibit No. 523, it is, I suppose, what I talked about when

1 I received a call from the German military attache;
2 because I never called foreign military attaches
3 myself to come to the Ministry. When I see the date
4 regarding the matter in the exhibit it proves to be
5 the latter part of June 1940. That was just the time
6 when there was an opinion that Japan should ask Ger-
7 many to intervene in settling the China Affair. So
8 I assume that the talk must have referred to that
9 matter, sounding the German attitude. The words
10 'Japan has interests in French Indo-China problems'
11 probably, I am convinced, concerned the fact that
12 at that time both governments of Japan and France had
13 come to a mutual understanding regarding a ban on
14 transportation of materials to the Chungking Regime
15 and that the Inspection Corps started for French Indo-
16 China under Major General NISHIHARA. This was not my
17 personal opinion, but a description of what was then
18 really going on.

19 "22. At the time when TOJO entered the
20 KONOYE Cabinet as Minister of War, the Army had the
21 following opinions about diplomacy: The main object
22 of diplomacy should be the settling of the China
23 Affair; as for the other diplomatic problems, elastic
24 constructive diplomacy should be carried on with a
25 view to attaining that object. That was as was shown

1 in the political program of the KONOYE Cabinet. There-
2 fore, the diplomatic policy was not so limited as to
3 require a conclusion of the Tripartite Alliance. Then
4 why was the Tripartite Alliance so rapidly concluded
5 in September, shortly after the KONOYE Cabinet had
6 been formed in July? It was entirely due to the
7 fact that Foreign Minister MATSUOKA took such an ac-
8 tive part. MATSUOKA, Foreign Minister, with a great
9 confidence in his capacity of diplomacy, carried out
10 a drastic reform of his ministry and pushed himself
11 forward on his belief, without giving ear to any
12 other person's opinion. It was also due to his sole
13 activity that the Tripartite Alliance was so rapidly
14 concluded. I had no knowledge of the significance
15 of the pact until I heard the Chief of the Treaty
16 Bureau explain the text of the Tripartite Pact at
17 the Inquiry Commission of the Privy Council. In this
18 court I first learned that I had been suggested for
19 an order by German Ambassador Ott to the German Gov-
20 ernment for the reason that I endeavored for good
21 relations between Japan and Germany. The date of
22 the telegram from Ambassador Ott regarding the decor-
23 ation was the middle of May 1942 after I left my posi-
24 tion as Chief of the Military Affairs Bureau. According
25 to international usages, this kind of affair was

1 practiced by a mutual exchange of proposals. There-
2 fore, Germany, I believe, was informed of my name by
3 the War Ministry for the reason that I had been at
4 that time Chief of the Military Affairs Bureau. But
5 as I mentioned above, I have never seen the decoration
6 that may have been granted to me.

7 "23. From October 1939 to April 1942 I held
8 the position of Chief of the Military Affairs Bureau.
9 For about one year and eight months of that period
10 (from July 1940 to April 1942), I was under TOJO,
11 Minister of War. In response to the inquiry of the
12 prosecution, I was interpreted as if I answered to
13 the effect that the War Minister came to my office to
14 ask my opinion. This is a big misinterpretation. A
15 minister never came to a director's office.

16 "I could express my opinion to General TOJO
17 in his capacity as War Minister, but I was not allowed
18 to do that to General TOJO in his capacity as Prime
19 Minister. He drew a clear line between the function
20 of the Prime Minister and that of the Minister of
21 War. Therefore, as far as the function of the Prime
22 Minister was concerned, he did not adopt any opinion
23 of the staff of the War Ministry.

24 "It seems to have been contended by the prose-
25 cution that in case of disagreeing with the Minister

1 of War, I could resign my position (in reply to
2 the defense motion to dismiss). It was, however,
3 prohibited for the Japanese military to resign or
4 leave the service for the reason of their disagreeing
5 with their superiors.

6 "Only in case of illness were they permitted
7 to do so. TANAKA, Ryukichi, testified in this court
8 that he knew someone who had resigned his position
9 as Chief of the Military Affairs Bureau for such
10 a reason as is mentioned above. I wonder whom on
11 earth he mentioned by saying so. I also know that
12 there was an instance in which someone did not fol-
13 low the order of the War Minister, and the Army author-
14 ities transferred him with a disciplinary object.
15 It was, however, the worst instance. As a matter of
16 military discipline it was not to be excused. As
17 for transfer, while I served as Chief of the Military
18 Affairs Bureau, soon after TOJO took office as Minister
19 of War, I frequently asked the Chief of the Personnel
20 Bureau to transfer me. In the latter part of October
21 1941, after the TOJO Cabinet was formed, I expressed
22 my desire for transfer at a meeting attended by the
23 Minister of War, Vice-Minister of War and the Chief
24 of the Personnel Bureau. But every time it was not
25 adopted.

"24. TANAKA, Ryukichi, spoke of me as a
1 statesman. But it was a sarcasm peculiar to him.
2 He once rebuked me, saying that I was too business-
3 like. My personal history shows clearly that I had
4 never made a study of politics and diplomacy and had
5 no experience in those affairs until I took office as
6 Chief of the Military Affairs Bureau. But after having
7 the position I made, as a matter of duty, a study
8 of political and diplomatic problems which came up.
9 My views were sometimes adopted by the Minister and
10 sometimes not. TANAKA testified that General TOJO
11 had scarcely any sense of politics and diplomacy and
12 no experience in those affairs, so he adopted my opin-
13 ion about them. This was his dogmatic opinion, con-
14 trary to the fact. TANAKA once served in China and
15 held the position of Chief of the Military Intelli-
16 gence Organ there, but he overestimated his exper-
17 ience and regards himself as if he had a sense and
18 experience about politics and diplomacy. I felt quite
19 disgusted to hear his speaking from such a viewpoint
20 of General TOJO before some civilians. He was quite
21 wrong in his criticism of General TOJO. Needless to
22 say, General TOJO, being a military man, had no po-
23 litical experience. But he was such a hard worker
24 that he studied anything concerning politics and
25

1 formed his opinion about it. He was not in the least
2 a person who would blindly obey such an opinion as
3 mine. This can be easily seen from the fact that for
4 more than two years after I was transferred he steered
5 through difficult political situations as Prime Minis-
6 ter. It was at the busiest time after the outbreak of
7 the Pacific War that I was transferred.

8 "25. TANAKA, Ryukichi also testified that he
9 opposed himself to the political intervention of mili-
10 tary men, especially of the Military Affairs Bureau.
11 TANAKA added that the political intervention of mili-
12 tary men was prohibited by the Japanese Constitution.
13 First of all, he was wrong in his statement that it
14 was proscribed in the Constitution. The Constitution
15 contains no such provision. Speaking of legal basis
16 for it, they are as follows: Military men in active
17 service have no franchise nor eligibility for elec-
18 tion; Military Criminal Law restricts the freedom of
19 political speech and association of military men in
20 active service; the Imperial Rescript granted by the
21 Emperor MEIJI to military and naval men in 1882 ad-
22 monishes that military men should perform their duties
23 without intervening in politics. (The last Imperial
24 Rescript was what the Emperor MEIJI granted to mili-
25 tary and naval men in order to admonish them because

1 those who participated in the Meiji Restoration were
2 agitated owing to a political trend.) Military men
3 should, as is mentioned above, not intervene in poli-
4 tics. However, the War Minister can and must take
5 part in politics. It is because the War Minister has
6 the power to attend the Cabinet Conference as a Min-
7 ister of State, and is actually thus a statesman.
8 However, the War Minister must carry out the matters
9 decided upon by the Cabinet Conference. For this
10 purpose it is necessary to have a political affair
11 machinery. The Military Affairs Bureau is the very
12 machinery which deals with these political affairs. The
13 function of the Military Affairs Bureau consists in
14 carrying on such political affairs and not in poli-
15 tics itself. If the bureau was not allowed to carry
16 on such political affairs, the War Minister as poli-
17 tician would prove to be functionless. For this
18 reason the organization of the War Ministry, (exhibit No.
19 74), indicates clearly that liaison business with the
20 Diet is one of the duties of the Military Affairs Sec-
21 tion of the Military Affairs Bureau.

22 "On this point I was never protested to by
23 TANAKA, Chief of the Military Service Bureau. Whereas,
24 I was quite surprised to hear his making a self-
25 righteous statement in this court about military men's

1 intervention in politics. Contrary to his testimony,
2 I remember that he made so many speeches and actions
3 regarding politics, which did not belong to his duties
4 as Chief of the Military Service Bureau, that I ad-
5 vised him to abstain from doing them. He was not
6 only my former subordinate but also a friend of mine,
7 so I gave him advice (without deliberate considera-
8 tion) but it was in vain. Soon after that a rumor
9 prevailed among the public that MUTO and TANAKA had
10 had a quarrel, so that I was greatly annoyed. It is
11 true that about 1941 I objected to his attending the
12 Diet in session as a Government Commissioner. That
13 was due to the following reason: In the War Ministry
14 explanations and replies in the Diet were prepared
15 beforehand and approved by the War Minister so that
16 there might not be any inconsistency or misunderstand-
17 ing in replies to interpellations. That was the same
18 in every ministry. But TANAKA would have a bold
19 utterance of his own accord. This might have amused
20 the members of the Diet and made the newspapers lively,
21 but it was the Military Affairs Bureau that was an-
22 noyed by facing a protest against it from other min-
23 istries and the General Staff.

24 "26. On December 8, 1941, when the Pacific
25 War broke out, TOJO, Minister of War, delivered an

1 address to all the staff of the War Ministry. Just
2 before TOJO's delivering the address, TANAKA, Chief
3 of the Military Service Bureau, came up to me and
4 said 'With this war, TOJO has become a hero.' 'If
5 Japan should be defeated,' I retorted, 'Japan's
6 national polity would be changed. Consequently, far
7 from being called "hero," TOJO might be blamed for
8 "high treason."' However, I remember I deeply re-
9 gretted that I had told him that the national polity
10 might be changed if Japan was defeated. In this con-
11 nection I remember also that on that day, or the fol-
12 lowing day, TOMIYAMA, Chief of Personnel Bureau, told
13 me, 'What a man TANAKA is to tell me that TOJO will
14 become a hero! I accused TANAKA of his imprudence
15 in such a serious affair of our state, as if it were
16 a personal problem of TOJO's.' But he testified in
17 this court that I myself had said so, whereas, accord-
18 ing to TANAKA's testimony in the court, the utterances
19 of TANAKA and myself were contrariwise stated. I
20 cannot understand his motive.

21 "27. Furthermore, TANAKA, Ryukichi, testi-
22 fied that about the 9th of December 1941 when I talked
23 with the chiefs of other bureaus at a luncheon about
24 the progress of negotiations between Japan and America,
25 I said that the visit of Ambassador KUKUSU to America

1 and the sending of the Tatsuta Maru had been a sort
2 of camouflage before the war. There is no reason I
3 have said such a thing. I absolutely did not say that.
4 As for the visit of Ambassador KURUSU to America, I
5 also heard it had been suggested as a step sincerely
6 taken for Japan-American negotiations by Foreign Min-
7 ister TOGO at the request of Ambassador NOMURA and had
8 been decided upon after his consultation with TOJO,
9 Prime Minister, as was testified in this Tribunal.
10 Regarding the sending of the Tatsuta Maru, however,
11 it had no connection with the War Minister, and I
12 knew nothing about the details of its despatch.
13 Since the war broke out there prevailed mysterious
14 stories or rumors considered true among the general
15 public. I believe the matters regarding Ambassador
16 KURUSU and the Tatsuta Maru might have been among them.
17 I am sure TANAKA testified, connecting of his own
18 accord, matters regarding myself with those rumors.

19 "28. The prosecution's deposition of exhibit
20 No. 2240 indicates that I answered that I had made a
21 draft of the Imperial Rescript regarding the declara-
22 tion of war together with HOSHINO, Chief Secretary,
23 and OKA, Chief of the Military Affairs Bureau of the
24 Navy. That was a mistake. The fact was that I and
25 OKA only offered reference materials for the Rescript

1 to HOSHINO, Chief Secretary. Such an Imperial Rescript
2 was, as a principle, to be prepared in the cabinet. The
3 cabinet made a draft of it.

4 "29. In the Japanese Government the general
5 control of war prisoners was under the charge of the
6 War Minister, and collateral matters as to war pris-
7 oners, such as free transportation by rail, free mail
8 service and free exchange service, were under the
9 charge of the respective ministers concerned. It did
10 not mean, however, that war prisoners came under the
11 control of the Minister of War as soon as they were
12 delivered to the Japanese Army. At first the Commander
13 of the Army or Navy who took war prisoners in the front
14 should examine them, make a list of the war prisoners
15 and report them to the Imperial Headquarters. Then
16 the Imperial Headquarters should report them to the
17 Minister of War, who should show in turn the location
18 and capacity of the proper camp to Imperial Headquarters.
19 The Imperial Headquarters should arrange for the trans-
20 port of the war prisoners to the camp indicated by the
21 War Minister. War prisoners would be under the charge
22 of the War Minister for the first time when this trans-
23 portation was completed.

24 "In the past wars the Minister of War had
25 the War Prisoners' Intelligence Bureau and the War

1 Prisoners' Camps as the organs for controlling war
2 prisoners. In the Great East Asia War, however, the
3 War Prisoners' Administration Department was newly
4 organized in the Ministry of War. The reason why
5 the War Prisoners' Control Department was created
6 this time was due to the following facts: In past
7 wars, namely, the Russo-Japanese War and World War I,
8 the business concerning war prisoners was comparatively
9 simple, as the battlefields were limited to either
10 Manchuria or Tsingtao, and the number of war prisoners
11 was few; so that the competent bureaus of the War Min-
12 istry, with the War Prisoners' Intelligence Bureau as
13 the nucleus, were sufficient to transact the business.
14 In the Pacific War, however, the business became com-
15 plicated as the battlefield was wide and prisoners
16 scattered over a wide area -- the said department was
17 created for the sake of unifying the business.

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1 "The organization of the War Prisoners'
2 Intelligence Bureau and the War Prisoners' Camp Ordinance
3 were promulgated by Imperial Orders toward the end of
4 December of 1941. But the War Prisoners' Control De-
5 partment was established by the order of the War
6 Minister toward the end of March 1942. These regula-
7 tions were drawn up at the Military Affairs Bureau to
8 which I was then attached. However, the order of
9 establishing the War Prisoners' Control Department was
10 issued during my absence from duty, owing to my journey
11 by order to the southern area. I was informed of it
12 later.

13 "I served as the Director of the Military
14 Affairs Bureau until April of 1942, when any plan for
15 taking in war prisoners was not yet laid. It was because
16 there was no authentic report from the Imperial Head-
17 quarters; the questions whether it was right to trans-
18 port the war prisoners taken in the southern tropics to
19 the north in a cold season, whether there were any places
20 and buildings suitable for the war prisoners' camps,
21 etc. being under investigation. So it was not yet
22 decided on at that time. The Shanghai and Zenzuji
23 Camps were urgently set up, as the war prisoners taken
24 by the navy forces were transported by boats.

25 "As for the war prisoners' labour, no study had

1 been made at all at that time. I have no recollection
2 that there was any protest at all regarding the treat-
3 ment of POW from any foreign countries during my tenure
4 as director.

5 "30. As to some exhibits. --

6 "(1) Exhibit No. 2246 states that there were
7 explanations of the international situation at the
8 informal meeting of the war councillors on July 1, 1941.
9 But I was absent from that meeting, because I was sick
10 in bed.

11 "(2) I have never read the report of investi-
12 gation made by the Provost Marshal concerning the air-
13 men who had made an air raid on Japan on May 23, 1942,
14 which is stated in Exhibit No. 2245." May I say that
15 the date there should be 18 April 1942. "I was then no
16 longer the Chief of the Bureau of Military Affairs, and,
17 because I was not in Tokyo, it was not possible for me
18 to read that report.

19 "(3) Exhibit No. 2247: I was in Sumatra at
20 the time when the ceremony of awarding decorations was
21 held in the German Embassy on October 1, 1942. And I
22 have never had decorations from the German Ambassador.

23 "(4) Exhibit No. 476 includes a secret diary
24 of the Imperial Headquarters concerning the incident of
25 Singapore from February to March in 1942. But I have

1 been made at all at that time. I have no recollection
2 that there was any protest at all regarding the treat-
3 ment of POW from any foreign countries during my tenure
4 as director.

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7 explanations of the international situation at the
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13 men who had made an air raid on Japan on May 23, 1942,
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18 to read that report.

19 "(3) Exhibit No. 2247: I was in Sumatra at
20 the time when the ceremony of awarding decorations was
21 held in the German Embassy on October 1, 1942. And I
22 have never had decorations from the German Ambassador.

23 "(4) Exhibit No. 476 includes a secret diary
24 of the Imperial Headquarters concerning the incident of
25 Singapore from February to March in 1942. But I have

1 never seen such a document. As a matter of fact, an
2 attendant of the Minister of War was not given a seat
3 in the Imperial Headquarters. And also the secret
4 diary of the Imperial Headquarters was not to be seen
5 by an attendant of the Minister of War.

6 "31. Regarding the treatment of war captives
7 in China, the prosecutor produced my interrogation as
8 evidence. The contents of that document were true. In
9 October 1939, when I took charge as Director of the
10 Military Affairs Bureau, it was already two years and
11 three months after the outbreak of hostilities between
12 Japan and China. During this period the captives in
13 China were not treated as prisoners of war, and were there-
14 fore treated in a special way. Even the War Prisoners'
15 Intelligence Bureau was not in existence. The Chinese
16 operated on the same basis or theory as the Japanese
17 did in regard to captives. Even after that time the
18 Japanese Government never declared war, nor did she
19 declare the existence of hostilities; hence, the treat-
20 ment of war captives was carried on as it had been before.
21 Accordingly, the war captives were never within the
22 jurisdiction of the War Minister, and hence the Director
23 of the Military Affairs Bureau had nothing to do with
24 them. Further, I was never ordered to make a study of
25 this matter by my superior officers.

1 "32. I was ordered by the War Minister to go
2 to the Southern Area of operations to observe the state
3 of affairs there, scheduled for three weeks from about
4 March 20, 1942. I made a tour of Formosa, Saigon,
5 Bangkok, Rangoon, Singapore, Palembang, Java, Manila, etc.
6 to learn of the conditions. I returned to Tokyo on
7 April 12. When I arrived at the War Ministry about noon,
8 Director of the Personnel Bureau TOMINAGA told me that
9 there was the decision that I was transferred to be the
10 Commander of the Imperial Guard Division stationed at
11 Sumatra.

12 "I was actually appointed the Commander of the
13 Imperial Guard Division on April 20 and to the date of
14 my departure in preparing for the departure I did no
15 work as Director of the Military Affairs Bureau. I
16 arrived at Medan on May 11 and placed the division under
17 my command. In my 30 years life as a soldier, it was
18 the first time that I ever had a responsible post with
19 a certain decisive power, whereas the period ended when
20 I was dispensed with from the duty of division commander
21 in 1944.

22 "33. My duty in Sumatra was to take charge of
23 the defence of Northern Sumatra in accordance with the
24 order from the 25th Army Commander. I took command of
25 the Imperial Guard Division, of which one infantry

1 regiment among three had been detached in Malaya as under
2 the direct command of the 25th Army Commander.

3 "As regards the military administration in this
4 district, the organ under the direct control of the
5 Commander, stationed at every province of Sumatra, was
6 in charge of it. Between the military administration
7 and the defence -- which was my duty -- a clear line was
8 drawn.

9 "Secondly, as for the control of war prisoners
10 and internees, the control of war prisoners had been,
11 when I arrived there, handed over to the Commander and
12 was under the charge of the officer despatched by the
13 Commander. The ordinary enemy aliens were interned by
14 the military administration organs. It was, accordingly,
15 no part of my duty to superintend the affairs concerning
16 war prisoners and internees. The growing activity of
17 the British forces on the Indian Ocean reduced my area
18 of defence into Patanori Province, East Coast Province,
19 and Achic Province in the northern end of Sumatra after
20 April 1943, and afterwards into Achic Province and East
21 Coast Province from the beginning of 1944.

22 "While I was in office in Sumatra, there were
23 no hostilities and, accordingly, no war prisoners taken.

24 "I never employed war prisoners for labour.
25 Within my area of defence, however, there were many

1 forces beyond my command, such as air units, oil-drilling
2 corps, shipping corps, supply corps under direct control
3 of the 25th Army Commander, naval forces, etc. Certain
4 corps among them were employing war prisoners for labour.

5 "It was not my duty to defend the camps of either
6 war prisoners or internees. My duty was general defence
7 of Northern Sumatra, without including special defence,
8 namely immediate guard of the war prisoners' camps and
9 many supply warehouses, etc.

10 "34. As for troubles with native inhabitants,
11 though I received reports from regimental chiefs on
12 punishment of my subordinate soldiers, all of these
13 related to the cases inside my army. I remember, as an
14 only case having anything to do with native inhabitants,
15 there was a love affair between a certain first-grade
16 private and a native girl. After my arrival at my
17 post, I ordered everyone, including myself, attached
18 to the Imperial Guard Division, to put a mark, red
19 cherry-blossoms on a white patch, on the left breast,
20 so even native inhabitants could recognize at a glance
21 anyone of the Imperial Guard Division. They called us
22 the 'Cherry Corps'. Even with such identification, I
23 heard of no complaint neither from the military adminis-
24 tration organization part nor from the native inhabitants
25 about my division.

1 "Having been appointed the Chief of the Staff
2 of the 14th Area Army, I left Medan for the Philippine
3 Islands on October 12, 1944.

4 "35. I arrived at Port McKinley in the suburbs
5 of Manila City as the Chief of the Staff of the 14th
6 Area Army on the night of October 20, 1944.

7 "As regards the general condition of the
8 Philippine Islands at that time, the U.S. Army landed
9 at Leyte Island on October 18, before General YAMASHITA,
10 who had arrived there only early in October, became well
11 acquainted with the state of the islands. The 16th
12 Division defending the island seemed to have been routed
13 at a stroke, and reported nothing about the situation;
14 and the whole Philippine Islands, especially Luzon
15 Island, with hardly any fortifications, were plunged
16 into a chaos. The alleged atrocities during my time in
17 the Philippine Islands occurred in the chaotic war situ-
18 ation.

19 "General YAMASHITA's duty was to take charge of
20 the defence of the Philippine Islands in accordance with
21 the command of Field Marshal TERAUCHI, the Commander in
22 Chief of the Southern General Army; for that purpose,
23 expecting the U. S. Army possibly to invade the Southern
24 Philippines, to make preparations for decisive battles,
25 for the present, with the naval and air forces; and, in

1 Luzon Island, with the military forces; and to cooperate
2 with the air and naval forces in the Philippine Islands
3 in carrying out operations. Field Marshal TERAUCHI was
4 then at Manila and later removed to Saigon, on November
5 17, 1944.

6 "The above duty of General YAMASHITA was
7 suddenly altered. It was due to the order from the
8 Southern General Army Headquarters given about October 12
9 or 13 which said, 'The 14th Area Army shall destroy the
10 enemy invading Leyte Island with the maximum strength
11 of the Army forces, in cooperation with the naval and
12 air forces.' Up to that time, the operation plan was
13 that, in case the United States Army should invade the
14 Southern Philippines, only the 35th Army stationed in
15 its vicinity would participate in the decisive battles
16 to be fought by the naval and air forces. Therefore,
17 as nothing had been prepared for transporting the army
18 forces from Luzon Island, we hastily set to arrangements
19 of ships, escort by the air and naval forces, picking
20 out the necessary force from the garrison in Luzon
21 Island and provisions of munitions and food, in order
22 to observe the above command. Nevertheless, after the
23 air and naval forces were frustrated in the decisive
24 battles about October 24 or 25, the command of the air
25 and sea of the Southern Philippines fell to the enemy's

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1 hands. As a result, though more than 50,000 men in
2 all were sent about seven times up to early in December,
3 most of their ships were sunk except the transport ships
4 of the 1st Division. Thus, early in December, General
5 YAMASHITA could only acknowledge the fact that, for
6 all his best efforts in the extremely difficult con-
7 ditions, he had completely failed in the decisive battle
8 in Leyte.

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1 "As for the Luzon campaign, alterations were
2 also made as to General YAMASHITA's duty. The Leyte
3 operations, having called for forces from Luzon, emptied
4 Luzon Island of its defence and completely spoiled the
5 defence plan. Reinforcements of three divisions were
6 sent from Japan, but one-half or one-third of their
7 force was lost, being torpedoed or air raided by the
8 U. S. forces and barely the remnants arrived at Northern
9 Luzon. In addition, they had no maneuvering power owing
10 to their loss of automobiles, horses, etc. Such being
11 the case, the Commander-in-Chief of the Southern General
12 Army ordered General YAMASHITA to evade decisive battles
13 and to assume the defensive persistently.

14 "Thereupon, General YAMASHITA decided on the
15 policy of evading decisive battles with the predominant
16 U.S. forces in the plain, to restrict the enemy to Luzon
17 as long as possible, taking advantage of mountainous
18 regions and to delay the enemy's attack against Japan
19 proper. For that purpose, the General took the following
20 steps:

21 "A. To establish three main positions in the
22 mountainous region east of Manila, in the mountains west
23 of Clark Field and in the mountainous region in the
24 vicinity of Baguio and Paletepas;

25 "B. As to Manila City, to disable the harbour

1 facilities and, besides, to carry maximum munitions
2 out of the city and then open the city and set it out-
3 side the battlefield;

4 "C. To defend against the landing U. S. Army,
5 disposing a unit in the vicinity of Apari at the
6 northern end of Luzon Island;

7 "D. To detach one unit to the Batangas Penin-
8 sula to delay the U. S. Army's rush toward the Manila
9 district.

10 "It was just after the U. S. force landed at
11 San Jose in Mindoro Island on December 15 that this
12 plan was shown.

13 "The U. S. 6th Army under the command of
14 General Kruger finally landed at the Bay of Lingayen on
15 January 9, 1945, followed by the 8th Army under the
16 command of General Eichelberger which landed on the
17 southwestern part of Luzon Island. At that time, the
18 Japanese Army had not yet completed their disposition.
19 I could not but admire the U. S. Army, the enemy as
20 they were, for their operations, since they landed on
21 Leyte, in contrast with our expectation. Their coopera-
22 tion between the air, naval and army forces was com-
23 plete. Their army force, once they landed on Luzon,
24 displayed really a great power of maneuver and fire.
25 The Japanese forces found their command system

1 instantly destroyed and, at last, were made to fight
2 independently, taking up their individual positions.
3 I learned after the war ended that the Japanese Army
4 in every district fought well to the last in spite of
5 their inferior equipment, especially, of shortage of
6 provisions. But General YAMASHITA was defeated after
7 all.

8 "36. The communication functions of the
9 Japanese Army in the Philippine campaign was extremely
10 poor. The Supreme Commander in the Southern Philippines
11 was Lieutenant General SUZUKI, Sosaku, the Commander
12 of the 35th Army, who, after the U. S. Army landed on
13 Leyte, removed his headquarters from Cebu to Ormoc.
14 From then on, communications with the Lieutenant General
15 became of the worst. After the U. S. forces occupied
16 Ormoc early in December, communication was interrupted,
17 except occasional short despatches via the 100th Divi-
18 sion at Davao, Mindanao Island.

19 "The traffic between YAMASHITA's headquarters
20 at Baguio and YOKOYAMA's headquarters east of Manila
21 was suspended (about January 13) after the U. S. Army
22 landing at Lingayen on January 9 intercepted the Baguio-
23 Manila Road.

24 "Wireless was barely available until about
25 May or June, though no telegram other than really

1 important ones for operations was despatched, owing to
2 the shortage of vacuum tubes and storage batteries.

3 "As for the communication between YAMASHITA's
4 headquarters and the headquarters at the west of Clark
5 Field, wireless as well as land traffic was interrupted,
6 since the U. S. Army charged into Clark Field about the
7 middle of January. As a result, our knowledge of the
8 state of that district became utterly uncertain. A
9 telephone line was installed to connect our forces in
10 the vicinity of the Bay of Lingayen, though it was in
11 a condition of being more broken than available, by
12 aerial and land bombardment. With the forces in the
13 vicinity of Paletepas, communication was made by wire-
14 less, which was also inadequate due to breakdown of
15 instruments.

16 "Such frequent breakdown of instruments as
17 given above was due to the facts that, firstly, the
18 communication equipment of our army was originally
19 inferior to that of the U. S. Army beyond comparison,
20 and that, secondly, many of these instruments had been
21 soaked in the sea, and were constantly broken. In
22 addition, most persistent bombarding by the U. S. forces
23 destroyed our instruments one after another. In such
24 circumstances the commanding organizations of General
25 YAMASHITA had been destroyed.

1 "37. General YAMASHITA never ordered Manila
2 City to be defended to the last. As his Chief of Staff,
3 I was well acquainted with the General's intention.
4 I was always with him, except the time when I went out
5 to observe the front. Even if any order was given,
6 during my absence, I did not fail to see it later. I
7 can, therefore, tell for certain that such an order was
8 in no case given. On the contrary, I once studied
9 earnestly, by order of General YAMASHITA, how to make
10 Manila City open. Having realized, however, that the
11 matter was beyond the scope of the General's authority
12 and could not be put in practice, he was at last
13 resolved to place Manila City outside the battlefield.

14 "It was largely owing to the following
15 circumstances that, in spite of the above, the hostili-
16 ties and accidents of violence to the citizens broke
17 out practically within the city of Manila. On January 3,
18 1945, General YAMASHITA ordered Lieutenant General
19 YOKOYAMA, the Commander of the 8th Division, to take
20 command of the forces in the vicinity of Manila and, in
21 order to command the operations in the district of the
22 Bay of Lingayen, removed to Baguio. Then, on January 5,
23 the Supreme Commander of the naval forces removed to
24 Baguio, after investing Lieutenant General YOKOYAMA
25 with the commanding power over the naval forces in the

1 vicinity of Manila concerning their land fighting alone.
2 After that, about February 10, General YAMASHITA, informed
3 of hostilities being continued within the city, urged
4 Lieutenant General YOKOYAMA immediately to withdraw
5 these forces into the mountains east of Manila. However,
6 Rear Admiral IWABUCHI, the Supreme Commander of the
7 forces in the city of Manila, did not observe this,
8 for reasons which I do not know. And they were annihi-
9 lated at last. I learned from the investigation made
10 after the war came to an end that, when the U. S. forces
11 had invaded Manila City about February 4 or 5, approxi-
12 mately 1,800 men of the army force had remained there
13 under the command of Rear Admiral IWABUCHI and the naval
14 force had amounted to some 20,000 strong.

15 "38. There were many guerrilla forces in the
16 Philippine Islands. After the termination of war, it
17 was made public that the number of formal guerrilla
18 reported to the Philippine Government was some 500,000.
19 It is, however, unknown how many guerrilla besides the
20 above either temporarily or continuously cooperated
21 with them. They were so many that every native inhab-
22 itant seemed to be a guerrilla after the U. S. Army's
23 landing. General YAMASHITA, about November 1944, ordered
24 his men to attack armed guerrillas in view of increased
25 guerrilla activity. Nevertheless, he by no means

1 ordered any member of guerrilla or any collaborator to
2 be sentenced to death without a trial. We, the staff,
3 including General YAMASHITA, were utterly ignorant at
4 that time of the news that, about February or March of
5 1945, some inhabitants were murdered (in Batangas
6 district). General YAMASHITA received no report on it.
7 Neither did General YAMASHITA receive any report about
8 the atrocities alleged to have been committed in other
9 parts of the Philippine Islands. A sole case was that,
10 early in April, 1945, Tokyo ordered us to investigate
11 into the actual state of affairs of violence against
12 some Spanish club which took place in February in the
13 city of Manila. General YAMASHITA ordered Lieutenant
14 General YOKOYAMA to investigate into it, which was not
15 successful, owing to the total destruction of the
16 Japanese forces in Manila City already toward the end
17 of February.

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1 "39. The war prisoners and internees in the
2 Philippine Islands were under the control of General
3 YAMASHITA when I arrived at my post there (October 20,
4 1944). Practically speaking, however, the Chief of
5 the 'War Prisoners' Camp at Manila City was dealing
6 with them under the command of the Assistant Commis-
7 sary General. No significant alteration was made,
8 even after I arrived at my post, on the regulations
9 about the treatment of war prisoners.

10 "The ration of food, after being inquired
11 into by the Chief of the Paymaster's Department, the
12 Assistant Commissary General, etc., was decided to
13 be varied according to the food condition in general,
14 similar to that for the Japanese troops. The ration
15 was successively decreased in Luzon. I have now no
16 exact recollection of its details, but in fact the
17 ration of rice was reduced from 400 to 300 grams toward
18 the middle of November.

19 "The reason was that the Philippine Islands,
20 though originally an agricultural country, had been
21 importing rice from French Indo-China and Siam even
22 in ordinary times, and that, although the foodstuffs
23 for the Japanese Army were entirely transported from
24 French Indo-China and Siam too, the importation became
25 difficult since the U. S. submarines suspended the

1 traffic on the China Sea. Fortunately 10,000 tons of
2 rice came early in November, one-third of which was,
3 however, decided to be put to immediate use for the
4 Leyte operations. Towards early December, the reserved
5 rice in the Supply Depot was released. The arrivals
6 after December were only 1,800 tons.

7 "To cope with such food condition, we set
8 to purchasing rice in the Central Philippines in
9 cooperation with the Philippine Government. One of the
10 reasons that General YAMASHITA disposed our main force
11 to Northern Luzon was that the Kagajan Valley had
12 overproduced rice. However, only a part of this plan
13 was put into practice, when the U. S. Army landed on
14 the Philippines. In consequence, we could not use the
15 rice accumulated with such effort.

16 "40. The procedure of transporting war
17 prisoners to Japan was to begin with the receipt of
18 order by the Commander, the controller of war prisoners,
19 from the War Minister to the effect that such and such
20 number of war prisoners should be sent to such and
21 such place. The ships to transport them should be
22 appointed by the Chief of the General Staff and be
23 notified to the Shipping Commander. Then the Commander
24 should make preparations for transportation of war
25 prisoners and make them take the appointed ships. They

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3 however, decided to be put to immediate use for the
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20 number of war prisoners should be sent to such and
21 such place. The ships to transport them should be
22 appointed by the Chief of the General Staff and be
23 notified to the Shipping Commander. Then the Commander
24 should make preparations for transportation of war
25 prisoners and make them take the appointed ships. They

1 were out of the control of the Commander after they
2 were made to go on board the ships in this way. I
3 was informed for the first time of the fact that the
4 Oryoku Maru transported them in December 1944, when
5 she was air-raided and took refuge in Orongapo about
6 December 15. Let me explain why, until then, I, as
7 the Chief of Staff, did not know about it. The said
8 order for transporting the war prisoners had been
9 issued prior to my arrival, and I heard that they were
10 made to gather at Manila from the camps including that
11 of Cabanatuan and the preparations were made. As the
12 ships were appointed about December 12 or 13, the
13 Assistant Commissary General and the Chief of the War
14 Prisoners' Camp let them take ships in accordance
15 with the order already received. So that it did not
16 come to my knowledge. On being informed of the Oryoku
17 Maru's accident, General YAMASHITA ordered the Chief
18 of the War Prisoners' Camp to rescue them as promptly
19 as possible. I, on my part also, cooperated with the
20 Chief of the War Prisoners' Camp, by order of General
21 YAMASHITA, as to the arrangements for cars and trains,
22 the transportation of food, etc. As at that time the
23 U. S. Army landed on Midoro Island near Manila, the
24 General was very busy. But he did his best in spite
25 of that.

1 "41. In laying the plan for Luzon opera-
2 tions, consideration was given to the question of how
3 to deal with war prisoners. As a result, General
4 YAMASHITA decided on liberating the war prisoners
5 and internees with a list of them through the state
6 representing the rights and interests (of Japan) in
7 case the U. S. Army should land on Luzon Island, and
8 reported to the Commander in Chief of the Southern
9 General Army to that effect. On the other hand, the
10 Commander in Chief of the Southern General Army gave
11 an advice to him that it was too early yet to do so.
12 However, the regulation previously instructed by the
13 Commander said, 'War prisoners may be released in
14 case the war situation should really necessitate it.'
15 It was, however, considered to be practically impos-
16 sible to remove war prisoners and internees into the
17 heart of mountains in the then circumstances in Luzon.
18 Therefore, General YAMASHITA, judging the circumstances
19 to be really unavoidable, decided to put it into
20 practice and, about the middle of December, ordered the
21 Chief of the War Prisoners' Camp to that effect. Then
22 the chief immediately gathered the internees of the
23 Baguio and Port McKinley Camps, and made preparations
24 for releasing them, accumulating food reserve for a
25 month.

1 "It was for the first time that I learned,
2 after the war was over, that the Chief of the War
3 Prisoners' Camp, having been mistaken that the above-
4 mentioned state representing the rights and interest
5 meant the state which represents U. S. A., namely,
6 Switzerland, whose agency was absent at that time
7 from Manila, had dealt with the matter not through
8 the medium of the representing state but that, as to
9 other matters, he had taken such necessary steps as
10 were possible for releasing them without causing
11 hostilities."

12 ACTING PRESIDENT: We will take a recess for
13 fifteen minutes.

14 (Whereupon, at 1445, a recess was
15 taken until 1500, after which the proceed-
16 ings were resumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Cole.

MR. COLE: I continue with paragraph 42:

"42. We desired, for the sake of obtaining information of the enemy, to take war prisoners during hostilities. In the defensive fighting, however, it was too difficult to take war prisoners at all. Only one case was the capture of a flight officer in August, 1944, but General YAMASHITA, learning that the officer's attitude was so admirable, ordered him to be sent back to the front of the U. S. Army. Later, Major General Guill, the Commander of the U. S. 32nd Division, informed us of his safe return.

"43. In accordance with the Imperial Headquarter's command, I surrendered myself, together with General YAMASHITA, on September 3, 1945.

"General YAMASHITA at no time released command of the Army on account of illness or any other reason. Neither was he ever absent, during the Philippine operations, from duty on an official trip to Japan or the Southern General Army Headquarters. I was always with the General and heard any report with him, to save time. I was fully

1 acquainted with General YAMASHITA's intentions. He
2 never issued orders against international laws nor
3 orders against humanity. He also never permitted
4 nor connived at the misconduct of his subordinates
5 when he knew of them. Under these difficult con-
6 ditions, General YAMASHITA took all possible pre-
cautions to prevent atrocities.

7 "44. I attended as a witness the trial of
8 General YAMASHITA. As for myself, I was often
9 examined as a war criminal suspect. Towards the
10 end of March, 1946, however, I learned from Captain
11 Carter, the Chief of the camp, that I was 'clear'
12 of the crime. I was told to the same effect by a
13 certain lieutenant, a member of the War Crimes
14 Investigation Committee."

15
16 May it please the Tribunal, I have a few
17 additional questions I would like to ask on direct,
18 growing out of the cross-examination of Mr. YAMAMOTO
19 this morning.

20 ACTING PRESIDENT: Proceed.

21 MR. COLE: May the witness be shown exhibit
22 No. 3445.

23 (Whereupon, a document was handed
24 to the witness.)

25 BY MR. COLE (Continued):

1 Q General MUTO, are you familiar with that
document, exhibit 3445?

2 A Yes, I do remember it. I have seen it
3 before.

4 Q I'll ask whether you made out that docu-
5 ment yourself.

6 A It is not the document that I drew up my-
7 self.

8 Q Please state to the Tribunal from whom you
9 received this document and, if you know, who did
10 make it out.

11 A This document was drawn up by the General
12 Staff Office and sent to the Military Affairs Sec-
13 tion of the Military Affairs Bureau from whom I
14 received it.

15 Q And, did you in turn send it to Mr.
16 YAMAMOTO in the Foreign Office?

17 A Yes, that is so.

18 Q Was any explanation given to you as to the
19 reasons behind that document, the reasons for draft-
20 ing it?

21 MR. LOPEZ: Objection as calling for a
22 conclusion of the witness.

23 ACTING PRESIDENT: Objection overruled.

24 A This document was based on the decisions
25

1 reached at the Imperial Conference of November 5,
2 1941, at which time the so-called "A" plan and "B"
3 plan were decided upon. This document was based
4 on this conference and had in view, following the
5 conclusion of Japanese-American negotiations, it
6 was still necessary to go into detailed discussions,
7 and with that in mind, this was drawn up by the
8 General Staff office.

9 THE MONITOR: Delete, "based on the con-
10 ference," and substitute the words, "based on this
11 decision."

12 Q The language used in that document was
13 characterized this morning as being extremely
14 strong. State, if you know, the reasons for the
15 use of that strong language.

16 A At that time, the General Staff Office was
17 opposed to the drafting -- opposed to the adoption
18 of the "A" or "B" plan. Especially, they were very
19 strongly opposed to the "B" plan, but with regard
20 to the adoption of the "B" plan -- the drafting of
21 the "B" plan, I had expressed my views to the chief
22 of the General Staff. I had succeeded in having him
23 agree to the views entertained by Foreign Minister
24 TOGO. In view of this fact, the General Staff were
25 not only opposed to the "A" and "B" plans itself but

1 were also strongly opposed to MUTO himself. A very
2 strong argument was in process at that time between
3 the General Staff Office and myself. In view of
4 such an atmosphere, the General Staff agreed to the
5 "A" and "B" plan but furthermore submitted or pre-
6 sented an additional plan, saying that this plan
7 also should be carried out -- that this plan should
8 be carried out. That is this document in question.
9 Accordingly, the contents of this plan used
10 unusually strong language.

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1 Q You have already stated that you forwarded
2 the plan to Mr. YAMAMOTO. Please state if you
3 recall any conversation that you had with Mr.
4 YAMAMOTO at that time concerning the document.

5 A After sending this document to Mr. YAMAMOTO,
6 I believe it was a bit later as I recall it during
7 the telephone conversation, YAMAMOTO said -- asked
8 me what was the sense of this document, that it was
9 very insehensible and he asked me why -- the reason for
10 it.

11 THE MONITOR: "He put this question to me in
12 an admonishing manner."

13 A (Continuing) I remember telling him that
14 as long as it was the General Staff plan I wanted
15 to show it to him, but that I would do everything in
16 my power to have it revised and that therefore he
17 should not place too much importance in it.

18 Q State, if you know, what happened to that
19 plan as set forth in this document.

20 A This document was left as it was. It was
21 abandoned and separately the officers in charge,
22 representing the Army, the Foreign Office, the Navy
23 and the Planning Board, made a study of the question.
24 The result of this new study was submitted to the
25 Liaison Conference. Accordingly, this document in

1 question was not seen by the War Minister at that
2 time.

3 Q Was the original plan which you received
4 from the Imperial General Headquarters used or dis-
5 carded?

6 A It was disregarded, abandoned.

7 MR. COLE: May it please the Tribunal, this
8 completes our direct examination, but there are a
9 few American counsel who wish to continue.

10 Mr. Brannon will follow me.

11 ACTING PRESIDENT: Mr. Brannon.

12 MR. BRANNON: On behalf of the accused Admiral
13 SHIMADA.

14 DIRECT EXAMINATION (Continued)

15 BY MR. BRANNON:

16 Q General, do I understand correctly that you
17 attended the Liaison Conferences held in the latter
18 portion of 1941?

19 A Yes, that is correct.

20 Q And did you listen carefully to everything
21 that was said during those meetings?

22 A Yes, I did listen to the matters very
23 attentively, but I have forgotten many things of course.

24 Q Well, what you would consider as important
25 matters would not be forgotten so easily; would they

1 General?

2 Did you at any time at any of the liaison
3 conferences ever hear any member of the Navy advocate
4 an attack upon the United States without notice
5 beforehand?

6 A I do not remember that at all.

7 Q Well, do you consider that an important
8 matter, General?

9 A Yes, it is important.

10 Q Then, if it occurred, do you not think that
11 you would remember it?

12 A Yes, I do.

13 Q Did you attend the Liaison Conference held
14 on December 2nd, 1941?

15 A I don't believe there was a meeting on the
16 2nd.

17 Q Well, if testimony was given before this
18 Tribunal that Vice-Admiral ITO, then Chief of the
19 Naval General Staff, at a liaison conference advocated
20 an attack upon the United States without notice and
21 that he did so on December 2nd, 1941, would he be at
22 error on both points?

23 A I do not recall. According to my memory, no
24 meeting was held on the 2nd of December, 1941, and I
25 do not remember having heard Admiral ITO advocating an

1 attack against the United States without warning.

2 Q Well, I would like to get a direct answer,
3 if I may, as to whether or not, in your opinion and
4 based upon your best recollection, that such a witness
5 saying such a thing would not be at error on both
6 points.

7 MR. LOPEZ: Objection as calling for an
8 opinion.

9 ACTING PRESIDENT: Objection sustained.

10 MR. BRANNON: That is all, Mr. President.

11 MR. FUJII: I am FUJII, counsel for the
12 accused HOSHINO.

13 ACTING PRESIDENT: Mr. FUJII.

14 DIRECT EXAMINATION (Continued)

15 BY MR. FUJII:

16 Q During the TOJO Cabinet, did Chief Secretary
17 HOSHINO attend all liaison conferences which you
18 have attended?

19 A Yes, he did.

20 Q Did he attend these conferences in his
21 capacity as a government official?

22 THE INTERPRETER: Correction: "...as one of
23 the secretaries."
24

25 The witness replied "Yes."

Q As one of the secretaries? Did he attend

1 attack against the United States without warning.

2 Q Well, I would like to get a direct answer,
3 if I may, as to whether or not, in your opinion and
4 based upon your best recollection, that such a witness
5 saying such a thing would not be at error on both
6 points.

7 MR. LOPEZ: Objection as calling for an
8 opinion.

9 ACTING PRESIDENT: Objection sustained.

10 MR. BRANNON: That is all, Mr. President.

11 MR. FUJII: I am FUJII, counsel for the
12 accused HOSHINO.

13 ACTING PRESIDENT: Mr. FUJII.

14 DIRECT EXAMINATION (Continued)

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17 HOSHINO attend all liaison conferences which you
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21 capacity as a government official?

22 THE INTERPRETER: Correction: "...as one of
23 the secretaries."
24

25 The witness replied "Yes."

Q As one of the secretaries? Did he attend

as one of the secretaries?

1 A Yes, he did.

2 Q Furthermore, while you were negotiating
3 with the Foreign Office representative YAMAMOTO,
4 Kumaichi at these liaison conferences on the question
5 of the Japanese-American negotiations, did HOSHINO
6 join in these discussions?

7 A No, he did not.

8 Q Then, did HOSHINO not have the power of
9 participating in the drafting and approval of
10 proposals and of affixing his signature to such
11 documents?
12

13 A He did not have the authority to either
14 participate in the discussions or to sign any documents.

15 Q That means that as a secretary -- as one of
16 the secretaries of the conference he had no such
17 powers; is that so?

18 A Yes, that is so.
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ACTING PRESIDENT: Mr. Freeman.

DIRECT EXAMINATION (Continued)

BY MR. FREEMAN:

Q General MUTO, you were director of the Military Affairs Bureau at the time General TOJO became prime minister, were you not?

A Yes.

Q General TANAKA has testified that certain members of your staff were active on behalf of General TOJO becoming prime minister. Did anyone within the Military Affairs Bureau ever discuss with you the possibility of TOJO becoming prime minister?

A Absolutely not.

Q Was it ever suggested to you by anyone in the War Ministry that TOJO should be made prime minister?

A No, there was no such occasion.

Q Did his becoming prime minister come as a complete surprise to you and those around you?

A It was a complete surprise to us. At first, when we received such news from the newspapers, we did not believe it.

MR. FREEMAN: If the Tribunal please, in this connection I would like to call the Tribunal's attention to record page 15,872.

Q You were director of the Military Affairs

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ACTING PRESIDENT: Mr. Freeman.

DIRECT EXAMINATION (Continued)

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Q Did his becoming prime minister come as a complete surprise to you and those around you?

A It was a complete surprise to us. At first, when we received such news from the newspapers, we did not believe it.

MR. FREEMAN: If the Tribunal please, in this connection I would like to call the Tribunal's attention to record page 15,872.

Q You were director of the Military Affairs

1 Bureau at the time the Prisoner of War Information
2 Bureau was set up, were you not?

3 A Yes.

4 Q Do you recall the approximate date this
5 Bureau was set up?

6 A It was at the end of December, 1941.

7 Q Can you briefly give the purpose for which
8 the Prisoner of War Information Bureau was established?

9 A There is a provision that immediately follow-
10 ing the outbreak of hostilities, according to inter-
11 national treaties, that an organ such as the Prisoner
12 of War Information Bureau should be set up. The
13 duties of such a Bureau are clearly stipulated in the
14 text of treaties.

15 Q Do you recall those duties?

16 ACTING PRESIDENT: Is there any necessity
17 for going any further in this line of questioning?

18 MR. FREEMAN: Yes, I think there is.

19 THE PRESIDENT: We have had plenty of evidence
20 on it.

21 MR. FREEMAN: If the Tribunal is satisfied,
22 I am.

23 ACTING PRESIDENT: You have your treaties and
24 your regulations, setting forth the duties.

25 MR. FREEMAN: I will go to another question,

1 then.

2 Q General MUTO, exhibits 1467 through 1473,
3 and numbers 1490 through 1496 are copies of commun-
4 ications passing between the Japanese Foreign Office
5 and the Allied Powers, particularly United States and
6 Britain, relative to the treatment of prisoners of war
7 from December 1941 through March 1942. Do you recall
8 the Military Affairs Bureau having received any of
9 these communications direct from the Foreign Office?

10 A I don't remember just now.

11 MR. FREEMAN: May the witness be shown the
12 Japanese of exhibit 1175?

13 (Whereupon, a document was handed
14 to the witness.)

15 Q If you will note, General MUTO, the title of
16 this exhibit is "Principal Reasons Alleged For The
17 Commencement of Hostilities Against U.S.A. and Britain."
18 The affidavit, if you will notice, accompanying this
19 exhibit, is made by General TANAKA. In the first
20 paragraph of the affidavit he says that you read
21 this document at a Liaison Conference of the Bureau
22 Heads of the War Ministry. Is that true?

23 A Yes, that is true. May I ask again: Did you
24 say that I was reported to have read it?

25 Q In his affidavit he states that you did read

it and I asked the question: "Did you read it?"

1 A No, I did not read it.

2 Q In the second paragraph of that affidavit he
3 says that to the best of his knowledge and belief
4 that SATO, Kenryo prepared this document, or it was
5 prepared under his direction. Did General SATO ever
6 discuss such a matter with you -- this document or
7 any matter relating to drawing up such a document?

8 A No, there is no such occasion.

9 MR. FREEMAN: That is all the questions I have
10 to ask.

11 Dr. HOZUMI.

12 MR. HOZUMI: I am HOZUMI, for the accused KIDO.

13 ACTING PRESIDENT: Mr. HOZUMI.

14 DIRECT EXAMINATION (Continued)

15 BY MR. HOZUMI:

16 Q In paragraph 15 of your affidavit you state
17 that you called on Chief Cabinet Secretary TOMITA
18 on the afternoon of the 14th of October 1941 and
19 told him your views for half an hour in regard to
20 the Navy's attitude toward the waging of war. Please
21 tell us in detail the contents of your conversation
22 that afternoon.

23 A I cannot tell you exactly word for word what
24 I said that afternoon but the general purport was as
25

1 follows: Although the Navy agreed to the decisions
2 reached at the Imperial Conference on the 6th of
3 September, at the present time it seemed that although
4 the Navy's attitude on the surface is not necessarily
5 opposed to this decision of September 6th, was not
6 opposed to carrying out the decisions of September 6th,
7 but apparently they were not in agreement to it
8 internally. Therefore, if the Navy did not want a
9 war, then the Army would have to change its attitude
10 also. But the Navy takes the view that without
11 making clear, definite, their attitude was they
12 would leave the matters in the hands of the Premier.
13 In such a case it would be impossible for the War
14 Minister to hold back, to suppress, those who advocate
15 a strong policy within the War Ministry. And so I
16 asked the Chief Secretary of the Cabinet to use his
17 good offices, or do what he could to get the Navy to
18 clarify its attitude, for then the War Minister would
19 be able to restrain the extremist elements, those who
20 advocated a strong policy, not only in the War Ministry
21 but also in the General Staff Office. That was the
22 purport of my talk with TOMITA.

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24
25

1 Q Did you make this proposal to Chief Secretary
2 TOMITA, fully confident that if the navy would make
3 clear -- would take a definite attitude against the
4 war, you would be able to restrain the army?

5 A Yes, that is as you say, because the reason is
6 that in a war in the Pacific the navy would have to
7 take the leading role -- play the dominant role. There-
8 fore, no matter how strongly those within the army who
9 took a strong attitude, no matter how strongly they
10 expressed their views -- advocated such views, they
11 would not be able to go ahead -- the army would be
12 powerless unless the navy agreed.

13 Q In paragraph 15 of your affidavit you state
14 that on the 14th of October 1941, at a Cabinet meeting,
15 War Minister TOJO strongly advocated that the Imperial
16 Conference decision of 6 September must be carried out.
17 Do you know anything about the reasons for General
18 TOJO's making such an assertion?

19 A Yes, I do.

20 Q Please tell us of them.

21 A Until the decision reached at the Imperial
22 Conference held on September 6, General TOJO had
23 exerted considerable efforts to restrain the General
24 Staff in order to arrive at this decision.

25 THE MONITOR: General TOJO made strenuous

1 efforts to restrain the strong policy advocated by the
2 General Staff Office before he was able to succeed in
3 getting the decision of September 6.

4 A (Continuing) Therefore, General TOJO's character
5 did not permit any alteration in the decisions reached
6 on September 6 in the presence of the Emperor without
7 any other good reason.

8 ACTING PRESIDENT: What has this got to do with
9 the accused SATO? Oh, KIDO; I misunderstood.

10 All right, go ahead.

11 THE WITNESS: Shall I reply?

12 ACTING PRESIDENT: I said you could go ahead.

13 THE WITNESS: May I be permitted to add a few
14 words?

15
16 A (Continuing) General TOJO's character is such
17 that not only decisions reached -- he wished faithfully
18 to carry out the decisions reached not only at Imperial
19 Conferences but even decisions which were reached at a
20 Cabinet meeting. It was his nature that he would do
21 his best to carry out all such decisions faithfully.
22 Furthermore, with his characteristic, he absolutely
23 could not try to enforce or carry out the decisions of
24 the Imperial Conference in a nether form.

25 THE MONITOR: He could not carry out the de-
cisions of the Imperial Conference by trying to fool the

1 public, that is, pulling the wool over their eyes and
2 carrying it out in an ambiguous manner.

3 ACTING PRESIDENT: I ask you this time, what
4 has that got to do with the accused KIDO?

5 MR. HOZUMI: When the TOJO Cabinet was about to
6 be formed, Marquis KIDO advised the Emperor that the
7 Emperor should order TOJO to nullify the Imperial Con-
8 ference decision of September 6 and to start out com-
9 pletely afresh, to wipe the slate clean. I wish to
10 prove that this advice given by KIDO was appropriate --
11 was an appropriate effort in trying to avert war.

12 ACTING PRESIDENT: I do not see how you are go-
13 ing to prove it by this witness.

14 MR. HOZUMI: This witness knows General TOJO's
15 reasons for advocating war -- why General TOJO wished to
16 have a decision for war, and therefore through this wit-
17 ness I want to prove that KIDO's judgment was correct.

18 However, this will end my questions. I have no
19 further questions on this point.

20 Q On the 17th of October 1941, when TOJO received
21 a telephone message to come to the Palace, were you
22 with TOJO?
23

24 A No, I was at the War Ministry. I believe the
25 War Minister was at his official residence.

Q Did War Minister TOJO seem to know beforehand

1 that he was being called to the Palace in order to form
2 a new cabinet?

3 MR. LOPEZ: If the Tribunal please, we have
4 been listening with great diligence here in order to
5 accord the accused KIDO all the rights in this court-
6 room, but it seems that he is going out of bounds.

7 ACTING PRESIDENT: If that is supposed to be an
8 objection, the objection is upheld.

9 MR. HOZUMI: My purpose in having asked this
10 question was to desire to make clear the fact that
11 there was no conspiracy between the defendant KIDO and
12 the defendant HOJO.

13 ACTING PRESIDENT: Has there been any such
14 charge of conspiracy?

15 MR. HOZUMI: The Indictment specifies that all
16 the defendants are guilty of having conspired with each
17 other.

18 ACTING PRESIDENT: All right, let him answer.

19 A He did not even dream that he would receive an
20 order to form a cabinet. He left for the Palace feeling
21 that because of the resignation en bloc of the Third
22 KONOYE Cabinet, he was to be berated by the Emperor,
23 that he would be asked various questions from the
24 Emperor, and he went prepared for this.

25 ACTING PRESIDENT: We will adjourn until

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tomorrow morning at 9:30..

(Whereupon, at 1600, an adjournment was
taken until Friday, 14 November 1947, at 0930.)

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14 NOVEMBER 1947

I N D E X
Of
WITNESSES

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I N D E X

of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
3090-D		3455	Record of the Fourth Council in the Imperial Presence held on 13 November 1940	33189	
3106(30)		3456	Basic Conditions for Settlement of Sino-Japanese Peace		33192
2570-B		3457	Matters Decided upon at the Five Ministers' Conference as of 31 October 1938	33202	
3104(2)		3458	Volume (1) entitled "Japanese-American Negotiations" dated August and September 1941	33202	
3258	3459		Volume (1) entitled "ICHIDAI NIKKI" dated March 1942 (First Great Diary)		33203
		3460	Volume entitled "Second Great Diary, "War Ministry" printed in Japanese	33213	
3257	3460-A		Excerpt therefrom		33213

1 Friday, 14 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

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21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8

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9 A K I R A M U T O, an accused, resumed the stand
10 and testified through Japanese interpreters as
11 follows:

12 MR. HOZUMI: I should like to continue my
13 questions which I began yesterday.

14 ACTING PRESIDENT: Proceed.

15 DIRECT EXAMINATION (Continued)

16 BY MR. HOZUMI (Continued):

17 Q Just before the recess you told me that General
18 TOJO proceeded to the Palace without any knowledge of his
19 of being ordered to form a cabinet. Was your answer
20 complete or have you anything to add to that statement?
21

22 A I have completed my reply.

23 Q I shall proceed to the next question.

24 ACTING PRESIDENT: There is a loose connection.

25 THE INTERPRETER: Mr. Witness, just before the
recess you said that General TOJO proceeded to the Palace

1 without having any knowledge of his being ordered to
2 form a new cabinet. How you anything to add to that
3 statement or was the answer complete?

4 The witness replied: "I have completed my
5 statement."

6 Q In that case I shall proceed to my next question.
7 After the formation of the TOJO Cabinet were you present
8 as secretary of the Imperial Headquarters and the Liaison
9 Conference?

10 THE INTERPRETER: Even after the formation of
11 the TOJO Cabinet did you attend the Liaison Conference
12 between the government and the High Command as a secre-
13 tary?

14 A Yes.

15 Q Mr. Witness, did General TOJO, after becoming
16 Prime Minister, carry out the desire as expressed by
17 the Emperor and delivered to him on the 10th of September
18 1941, the Imperial desire being to return the decision
19 made by the Imperial Conference on September 6 to a
20 clean state in order to avert war? Did Prime Minister
21 TOJO manifest or demonstrate any intention to carry that
22 Imperial will out at the Liaison Conference?

23 THE MONITOR: The first date should be October 17.

24 A I clearly remember General TOJO as making such
25 a statement at the first Liaison Conference called by

1 him after assuming the post of Prime Minister.

2 Q What did he say at that time?

3 A He said in effect that the Liaison Conference,
4 standing on a new position and without being bound by
5 the Imperial Conference decision of September 6, will
6 study ways and means of bringing about a settlement
7 of the pending issues between Japan and the United
8 States.

9 MR. HIZUMI: This completes my re-examination.

10 ACTING PRESIDENT: Mr. Furness. For the
11 purpose of the record state for whom you are appearing.

12 MR. FURNESS: I am appearing for the accused
13 SHIGEMITSU.

14 DIRECT EXAMINATION (Continued)

15 BY MR. FURNESS:

16 Q General MUTO, in paragraph 19 of your affidavit
17 you mention reports of Lieutenant General TATSUMI.
18 Will you tell me what post General TATSUMI occupied
19 when you received these reports?

20 A TATSUMI at that time was a military attache
21 at the Japanese embassy in London serving under
22 Ambassador SHIGEMITSU.

23 Q When Mr. SHIGEMITSU -- after Mr. SHIGEMITSU
24 returned in August of 19 -- did you have a talk with
25 him in August of 1941?

1 A I do not remember exactly whether it was the
2 nd of August or the early part of September, but I
3 do recall having had a talk with Mr. SHIGEMITSU.

4 Q Can you tell us what Mr. SHIGEMITSU said on
5 that occasion?

6 A I do not recall in detail the talk which I
7 had with Ambassador SHIGEMITSU at that time, but the
8 gist was roughly as follows: Speaking of the conditions
9 in Great Britain following the British defeat at
10 Dunkirk, Mr. SHIGEMITSU said that the British people
11 were extremely stubborn and that there was no likeli-
12 hood whatsoever of Britain ever losing the war and that
13 there would be no collapse of Great Britain as some
14 people were then talking about -- collapse of the
15 British Empire which some people were then talking
16 about. He further said that it was extremely likely
17 that the United States would seriously assist Great
18 Britain in her efforts and that no one must fail to
19 take into consideration the extremely great national
20 strength of America.

21 MR. FURNESS: That is all. Thank you.
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1 Mr. BLAKENEY: I wish to ask a few questions
2 on behalf of the defendant TOGO.

3 DIRECT EXAMINATION (Continued)

4 BY MR. BLAKENEY:

5 Q Mr. Witness, did you know that the last note
6 to the United States was originally to have been de-
7 livered at 12:30 p.m., 7th of December Washington time?

8 MR. LOPEZ: If the Tribunal please, objection
9 because it is leading.

10 ACTING PRESIDENT: It is leading, and I pre-
11 sume this is direct examination.

12 MR. BLAKENEY: I will reframe it.

13 Q What report did you first hear at the Liaison
14 Conference, and when did you hear it, about the time
15 of delivery of the last Japanese note to the United
16 States?

17 A It was at the Liaison Conference I think on
18 the 4th of December that I heard of the time of the
19 delivery of the Japanese last note to the United States
20 Government. What I heard then was that the time of
21 the delivery was to be 12:30.

22 Q Do you remember who made that report?

23 A I can't say positively, but I think it was
24 the Vice Chief of the Naval General Staff, Vice Admiral
25 ITO.

1 Q Was it reported how that time had been decided
upon?

2 A No, it was not.

3 Q Was the question of the time of delivery of
4 the last note to the United States again raised in
5 the Liaison Conference?

6 A After that, perhaps it was the following day,
7 or perhaps two days later, that I heard a report from
8 the Vice Chief of the Naval General Staff ITO and
9 Foreign Minister TOGO that the time of the delivery
10 had been changed to 1 p.m., at the Liaison Conference.

11 Q Who made the original report of that fact?

12 A I think it was ITO, Vice Chief of the Naval
13 General Staff.

14 Q Those hours in question, of course, are the
15 7th of December, Washington time?

16 A Yes.

17 Q After the decision had been made in the
18 Liaison Conference that the final note should be de-
19 livered before the commencement of hostilities, was
20 there any request made by the Naval General Staff, or
21 any statement of its position made by it, in regard
22 to the time of serving the final note?

23 A I think ITO, the Vice Chief of the Naval
24 General Staff, was talking to Foreign Minister TOGO,
25

1 but I do not know the particulars.

2 Q Well, tell the Tribunal whatever you heard
3 yourself from Vice Chief of the Naval General Staff
4 ITO about the Navy's desires in connection with the
5 delivery of this note.

6 A Well, I do not remember the details of what
7 ITO said, but what remains in my mind is the Navy's
8 desire to harmonize the time of delivery and naval
9 action.

10 MR. BLAKENEY: Was that "harmonize"?

11 THE INTERPRETER: Yes.

12 Q What do you mean by the word "harmonize" in
13 that connection, do you mean synchronize?

14 A Well, this is a general matter, but in open-
15 ing hostilities there must be a very close coordination
16 between diplomacy and operations. It is in that sense
17 that I used this term harmony, in the sense of coor-
18 dination.

19 Q Did you ever hear the Navy General Staff
20 representatives express their desire that the note
21 should be delivered as late as possible?
22

23 A Yes, I remember what the Vice Chief ITO said.

24 Q Did he say something to that effect?

25 A Yes.

Q You had a meeting with Mr. TOGO, had you not,

1 on New Years Day 1942?

2 A Yes.

3 Q Where was that meeting, and how did it come
4 about?

5 A Well, this was just mere formality, Japanese
6 formality, on New Years Day. I called on Foreign
7 Minister TOGO to pay my New Years greetings, and I met
8 him in the Foreign Minister's official residence.

9 Q After the exchange of greetings, did the talk
10 turn upon subjects connected with the war?

11 A Yes.

12 Q Can you state the substance of what you said
13 to him in that connection?

14 A Well, we were -- I said that on this New Years
15 Day the people at large were as usual drinking toso,
16 a sort of ceremonial sake taken only on New Years Day,
17 and that it appeared that the people at large were
18 extremely light-hearted, and that there prevailed an
19 atmosphere of victory in the air, and I further stated
20 that such a condition was dangerous. I then stated
21 that the future of this war was extremely serious and
22 difficult, and that something should be done to bring
23 about its termination as early as possible. And then I
24 requested the Foreign Minister that I would like to have
25 him, in the consideration of his plans, to make those

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1 which would bring about the earliest possible termina-
2 tion of the war.
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1 Q And what was Mr. TOGO's answer or comment?

2 A The Foreign Minister completely agreed with
3 me and assured me that he would do everything in his
4 power to do so.

5 Q Was that all of the conversation at that
6 time on the subject of ending the war?

7 A Yes, that was all.

8 MR. BLARENNEY: That is all.

9 MR. COLE: May it please the Tribunal, I
10 think that ends the direct examination.

11 ACTING PRESIDENT: Before you start your
12 cross-examination I have two or three questions by a
13 Member of the Tribunal.

14 Did you take any part as member from Japan
15 in the Italy-Germany-Japan Joint Commission of Experts?

16 THE WITNESS: I received an appointment as a
17 member, but never participated in the meetings of this
18 commission.

19 ACTING PRESIDENT: I guess that does away
20 with the other questions.

21 Mr. Lopez.

22 MR. LOPEZ: May it please the Tribunal.
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1 CROSS-EXAMINATION

2 BY MR. LOPEZ:

3 Q You stated that your intervention in liaison
4 conferences was merely clerical and that your interven-
5 tion in Imperial conferences was nothing but as
6 distributor of copies of documents to those who were
7 attending the conferences. Is that right?

8 A Yes.

9 Q When you were the distributor of copies you
10 had the rank of major general, is it not, sometime
11 between October 1939 to October 1941?

12 A Yes.

13 Q And when you were distributing copies after
14 October 1941 you had the rank of lieutenant general,
15 didn't you?

16 A Yes.

17 Q Lieutenant general is the second highest
18 rank that the Japanese Imperial Navy could bestow to
19 any military man in Japan?

20 THE MONITOR: Mr. Lopez, you said "Imperial
21 Navy."

22 MR. LOPEZ: Army, please.

23 A As you say.

24 Q And your colleague from the Navy, OKA, was
25 Vice-Admiral all the time when he was distributing

1 copies on behalf of the Navy at those Imperial con-
2 ferences?

3 A At first Rear Admiral and later Vice-Admiral.

4 Q Vice-admiral was the second highest rank in
5 the Japanese Imperial Navy, was it not?

6 A Yes.

7 Q On November 13, 1940 did you attend an
8 Imperial conference?

9 A Did you say 1940?

10 Q Yes, General.

11 A I have no recollection of having attended
12 an Imperial conference in 1940.

13 Q If I show you this document marked IPS docu-
14 ment No. 3090-D, whose authenticity has been certified
15 to by Masami SUZUKI, Secretary of the Inner-Court
16 Document Section, Board of Chamberlains, would that
17 help your recollection?

18 I see you have not answered me, General.
19 Would it help your recollection if I refer to you --

20 A Will you wait a moment.

21 MR. LOPEZ: If the Tribunal please, I would
22 just like to make of record the fact that more than
23 one minute has transpired from the time I asked my last
24 question.

25 A My recollection is that I attended Imperial

1 conferences in 1941, but I can't quite recall having
2 ever attended one in 1940.

3 Q Would you say that the document, 3090-D,
4 which has been shown to you is not authentic, under
5 your oath, and would you match your memory with what
6 is recorded in that document?

7 A I cannot recall ever having attended an
8 Imperial conference in 1940. My recollection is
9 that I attended Imperial conferences only in 1941.

10 Q Can you refer yourself to the 4th line of
11 page 3 of the document?

12 ACTING PRESIDENT: Is that the English or
13 the Japanese text?

14 MR. LOPEZ: It is the English text, if your
15 Honor pleases.

16 ACTING PRESIDENT: Well, where is it in the
17 Japanese text?

18 MR. LOPEZ: I do not know Japanese, if your
19 Honor pleases.

20 THE MONITOR: Mr. Lopez, would you read down
21 the paragraph which you are referring to, and then we
22 will find the section.

23 MR. LOPEZ: Yes, I was about to finish it,
24 as a matter of fact; I was not through. You had the
25 red light on me, and I could not follow through.

1 The line reads: "Chief of the Military
2 Affairs Bureau of the War Ministry MUTO, Akira,"
3 appearing as one of those invited by Imperial order
4 to attend the conference.

5 Have you located it, General?

6 A The name is written there, yes. Notwithstand-
7 ing that, I do not recall attending an Imperial con-
8 ference in 1940.

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1 Q Would you affirm definitely that you had
2 never attended the conference of November 13, 1940,
3 notwithstanding the fact that you have been shown that
4 document that you did?

5 A I cannot recall.

6 Q You have not answered my question, General.
7 What I asked you is whether you affirm definitely and
8 absolutely that you never attended that conference of
9 November 13, 1940, notwithstanding that I have shown
10 you document 3090-D.

11 A As I have been telling you, my recollection
12 is that I began attending Imperial conferences in 1941.
13 I can say this definitely. However, this document, here,
14 referring to some conference held in November, 1940,
15 does not mention what was even discussed at this con-
16 ference, and I am telling you that I have no recollection
17 of having attended this conference and this document
18 alone is not sufficient to help me to recall my memory,
19 granted that I did attend that meeting.

20 Q Would you maintain to the Tribunal that the
21 contents of this document are not authentic and true,
22 under your oath?

23 A As far as my recollections are concerned, I
24 cannot place any trust or reliability in this document.

25 Q It is certified to by the Secretary of the

1 Board of Chamberlain. Do you want to insinuate that
2 his certification is falsified, not true, or not authen-
3 tic?

4 MR. COLE: May it please the Tribunal, I
5 propose to object as little as is necessary, but I do
6 object to further questioning on this point.

7 ACTING PRESIDENT: You need not proceed any
8 further, Mr. Cole. I sustain your objection.

9 MR. LOPEZ: If your Honor please, my question
10 is directed to credibility. I intend to introduce
11 the document, not only for its substantive proof, but
12 also as a means of impugning his credibility.

13 ACTING PRESIDENT: You have asked him that
14 two or three times and gone as far as you can with it.

15 MR. LOPEZ: We offer in evidence IPS document
16 No. 3090-D, not only for the substantive proof that
17 it contains on the subject matter in issue, but also
18 for the purpose of impugning his credibility.

19 MR. COLE: May it please the Tribunal, I do
20 not believe the witness has identified this document,
21 unless I am badly mistaken.

22 ACTING PRESIDENT: He has not.

23 MR. LOPEZ: May I be heard, your Honor, please?

24 ACTING PRESIDENT: Yes.

25 MR. LOPEZ: As I pointed out, I offered the

1 document for two purposes: for the purpose of impeach-
2 ment and for the purpose of proving a substantive charge.
3 Under the American procedure of practice that we know,
4 in my country, it would be proper for me to confront the
5 witness, for example, with a piece of stone, black stone, or
6 ask him whether the stone is black or white, and if he
7 answers white, I have the right to have the stone intro-
8 duced, not as proof of the substance of the subject
9 matter under issue, but as to his credibility.

10 ACTING PRESIDENT: It has been our custom
11 here that when a witness admits and accepts a document
12 as authentic, it can be introduced on cross-examination.
13 This witness refuses to accept this document as
14 authentic. Therefore, according to our previous practice,
15 the objection is upheld; and your proper place to put
16 it in is in rebuttal.

17 MR. LOPEZ: In view of that ruling of the
18 Tribunal, I would ask permission to address more ques-
19 tions in order to lay the basis for the document.

20 ACTING PRESIDENT: All right.

21 Q In connection with the document 3090-D which
22 has been shown to you, would it refresh your memory
23 if I should recount to you a passage of that document,
24 the following passage of that document.

25 MR. COLE: Sir, I object to the reading of

1 any portion of this document until such time as it
2 is admitted. Certainly Mr. Lopez can question on the
3 basis of the same material, but I see no justice in his
4 reading from the document, itself.

5 MR. LOPEZ: I would reframe the--

6 ACTING PRESIDENT: I understood you would
7 reframe the question?

8 MR. LOPEZ: Yes, I will reframe the question,
9 your Honor.

10 Q In connection with the document 3090-D, would
11 it refresh your memory if I recall to you the fact that
12 with respect to the meeting of November 13, 1940, it
13 was the cabinet that asked that you be allowed to attend
14 the conference?

15 A It does not refresh my recollection.
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1 Q Would it not also refresh your memory if
2 I remind you that after great discussion between
3 the Lord Keeper of the Privy Seal, the Grand Chamber-
4 lain and the Vice-Grand Chamberlain, it was finally
5 decided that you should be invited on the principle
6 that the so-called Imperial Conference should be
7 consisted of those who bear responsibility for giving
8 advice to His Majesty?

9 A I have never heard of that.

10 Q Would it not refresh your memory if I recall
11 to you the fact that at the beginning those in the
12 palace were reluctant to invite you because they
13 feared that the conference might be too balky?

14 A It does not refresh my memory at all. It
15 appears that what you are talking about is some
16 discussions going on within the palace which has
17 never come to my knowledge.

18 ACTING PRESIDENT: I think you have sufficient-
19 ly laid the foundation.

20 MR. LOPEZ: Yes, sir.

21 Q Turning to another subject matter now --

22 MR. COLE: May it please the Tribunal, following
23 earlier practice, may I request that this document be
24 marked for identification?

25 ACTING PRESIDENT: It will be marked for

identification.

1 CLERK OF THE COURT: Prosecution document
2 3090-D will receive exhibit No. 3455 for identification
3 only.
4

5 (Whereupon, the document above re-
6 ferred to was marked prosecution exhibit
7 No. 3455 for identification.)

8 MR. COLE: And may I now request an English
9 copy of the document?

10 MR. LOPEZ: I think the ruling of the --
11 may I be heard, if the Tribunal please?

12 ACTING PRESIDENT: He is entitled to see it.
13 It has been filed with the clerk.

14 MR. COLE: In that event, sir, it follows,
15 I should think, that I am entitled to be served with
16 a copy of it for study at my leisure.

17 ACTING PRESIDENT: That is a matter of
18 courtesy between you and the prosecutor.

19 BY MR. LOPEZ: (Continued)

20 Q Let me see, General, if your memory is better
21 this time on the subject matter I am going to address
22 to you. On September 6, 1941, you had a meeting
23 with Admiral OKA at the official residence of the
24 Prime Minister, did you not?
25

A I do not recall, but I think I may have seen

him.

1 Q Didn't you frequently have a meeting with
2 him at the official residence of the Prime Minister?

3 A If there was any business there were many
4 occasions when we met at the official residence of
5 the Prime Minister, more or less coincidentally.

6 Q Not deliberately?

7 A No, there was no case of meeting OKA at
8 the Prime Minister's official residence deliberately.

9 Q Well, I suggest to you that on September 6,
10 1941, you met with him at the residence of the Prime
11 Minister in order to discuss the basic terms of
12 peace that were to be offered to China. Is that true
13 or not?
14

15 A I have no recollection. If I had any business
16 with OKA or if OKA had any business with me, we
17 would meet either at the Ministry of War or the
18 Ministry of the Navy, not at the Prime Minister's
19 official residence.

20 Q Again I show you IPS document No. 3106, and
21 see if this time it will help your recollection of
22 any meeting you had with Admiral OKA.

23 (Whereupon, a document was handed
24 to the witness.)

25 A Well, I think you are under a misapprehension

MUTO

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33,191

1 due to a mistranslation. By "Minister's official
2 residence" here means the official residence of the
3 Foreign Minister at which place a meeting was held
4 among bureau chiefs of the Foreign Ministry and that
5 at which OKA and I were present.

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1 Q You recall now that you had that meeting
2 at the Foreign Minister's residence with Admiral
3 OKA?

4 A Yes. This was one of a number of confer-
5 ences held at the Foreign Minister's official
6 residence attended by OKA and myself with the
7 bureau chiefs of the Foreign Ministry and possibly
8 also the Vice-Minister for Foreign Affairs.

9 Q Then, document 3106 is authentic?

10 A This is a Foreign Office document. I
11 think it has authenticity.

12 MR. LOPEZ: At this stage we offer in
13 evidence I.P.S. document No. 3106.

14 ACTING PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: Prosecution document
17 3106 will receive exhibit No. 3456.

18 (Whereupon, the document above
19 referred to was marked prosecution exhibit
20 No. 3456 and received in evidence.)

21 MR. LOPEZ: (Reading)

22 "Top Secret

23 "Foreign Top Secret

24 "No. 16 out of twenty copies

25 "Basic conditions for settlement of Sino-

Japanese peace (as discussed in a conference with the
1 Directors of the Military Affairs Bureau and the
2 Naval Affairs Bureau, which was held at the Minister's
3 official residence from 2 p.m. on September 6, 1941.)

4 "The Chungking Government shall join in
5 the Nanking Government, admitting that the funda-
6 mental treaty concluded between Japan and the Nan-
7 king Government, the agreement attached hereto
8 and the Japan-Manchukuo-China joint declaration are
9 based on the following principles:

10 "1. Joining of the Chiang regime with the
11 Nanking Government.

12 "2. Good neighborliness and intimate
13 friendship.

14 "3. Respect of sovereignty and territory;

15 "4. Joint defense (co-operation in mainten-
16 ance public peace, protection of rights and interests,
17 and defense against common menace.) For this purpose
18 Japanese troops shall be stationed especially in
19 Amoi and Hinan Island, as well as in certain dis-
20 tricts of Mongolia - Sinkiang area, and North China.

21 "Evacuation of troops. Japanese troops
22 dispatched to China on account of the incident shall
23 evacuate according to the Sino-Japanese agreement
24 upon settlement of the incident.
25

1 "Economic co-operation. Note: The economic
2 activities of any third countries, as far as they
3 are based on fairness and justice, shall not be
4 restricted.

5 "7. No annexation.

6 "8. No reparations.

7 "9. Recognition of Manchukuo."

8 BY MR. LOPEZ (Continued):

9 Q General, is it not a fact that the same
10 conditions and terms were incorporated in a docu-
11 ment handed to the American Ambassador at Tokyo,
12 Mr. Grew, on September 2, 1941? I refer to exhibit
13 1245-F, which appears at record page 10,782 to
14 10,794.

15 A I do not recall whether such terms were
16 incorporated in the document given to Mr. Grew,
17 the American Ambassador, but they were notified to
18 the United States Government during the course of
19 the Japanese-American negotiations.

20 ACTING PRESIDENT: We will recess for
21 fifteen minutes.

22 (Whereupon, at 1045, a recess was
23 taken until 1105, after which the proceed-
24 ings were resumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Lopez.

MR. LOPEZ: If the Tribunal please.

BY MR. LOPEZ (Continued):

Q Is it not true, General, that the basic terms discussed by you and Admiral OKA, appearing in exhibit 3456, contain the maximum terms beyond which the Japanese Government never did go, even to the last crucial moments, in the Japanese-American negotiations in Washington?

A The plan in which OKA and MUTO participated with other authorities is a plan, as I have stated in my affidavit, in which we two participated, representing the views of our respective ministries, the Ministry of the Navy and Ministry of War. After this plan is placed before the Liaison Conference for discussion and there adopted by the unanimous vote of its component members, then it becomes national policy.

This plan was the basic terms -- this plan, decided on September 6, contained the basic terms, but later, during the time of the TOJO Cabinet, were relaxed.

Q Is it not true that the stationing of troops in China, even after the peace settlement between China and Japan, was insisted upon by Japan to the last

moment of the Japanese-American negotiations?

1 A Even after the consummation of the peace ne-
2 gotiations between Japan and China it was recognized
3 that the stationing of troops would be necessary for a
4 certain period of time, for the purpose of defense
5 against communist activities.
6

7 Q You insisted on the stationing of troops at
8 Hainan Island after the peace settlement, did you not,
9 in order to contain communism?

10 A Well, I have no clear recognition with regard
11 to Hainan Island, but if my memory serves me right it
12 was recognized that in the case of Hainan Island the
13 stationing of troops was not necessary.

14 Q You mean the stationing of troops on Hainan
15 Island was not insisted upon down to the last moment
16 of the negotiations in Washington?

17 A As I have said, I am not clear on that point.

18 Q Was there a threat of communism from Sumatra,
19 Borneo or the Philippines?

20 A I can't quite comprehend the meaning of the
21 question.

22 Q I asked you if there was any threat to Japan
23 of communism from Borneo, Sumatra or the Philippines
24 penetrating into Japan, calling for the garrisoning of
25 troops on Hainan Island.

1 A No.

2 Q General, as Chief of the Military Affairs Bureau
3 were you not a member of the secret liaison committee
4 with the Five Ministers' Conference which had to do
5 with the affairs in China?

6 A I don't understand what you mean by a Five
7 Ministers' Conference or secret conference or liaison
8 conference.

9 Q No, I said that you were a member of the secret
10 committee which had liaison with the Five Ministers'
11 Conference, having to do with the affairs in China,
12 Ko-a-in.

13 A I was at one time a counsellor or secretary of
14 the Ko-a-in, the China Affairs Board, but I know nothing
15 about any secret committee liasoning with the Five
16 Ministers' Conference.

17 MR. LOPEZ: May the witness be shown IPS docu-
18 ment 2570-B?

19 (Whereupon, a document was handed
20 to the witness.)
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1 Q I am directing your attention to item No.
2 16, on page 4 of the English text.

3 Would a haphazard reading of it remind you
4 of your office as member of the Liaison Committee?

5 A No, I was not a member.

6 Q Wasn't the Chief of the Military Affairs
7 Section of your bureau the secretary of that secret
8 committee, of which you were a member?

9 A Well, it appears as if the Chief of the
10 Military Affairs Section of the Military Affairs
11 Bureau was a member of this so-called committee,
12 but this committee existed in 1938. It was not in
13 existence when I became Chief of the Military
14 Affairs Bureau. I know nothing about it.

15 Q You had no intervention about it?

16 A I had no knowledge of it whatsoever; that is
17 why I couldn't understand your question.

18 Q You deny the authenticity of IPS document
19 No. 2570-B?

20 A I cannot deny nor affirm the authenticity
21 of this document.

22 Q Is it not true that under the duties of a
23 member of that secret committee the Military Affairs
24 Bureau was providing secret funds for undercover
25 agents in China?

A I do not know.

1 Q Is it not a fact that even after the occur-
2 rence of the World War in the Pacific you were dis-
3 charging your duties as member of the secret Liaison
4 Committee?

5 MR. COLE: May it please the Tribunal, I
6 object to that question, as the witness has already
7 denied that he was a member of that committee.

8 MR. LOPEZ: It is the last question on that
9 point, your Honor.

10 ACTING PRESIDENT: Objection sustained.

11 BY MR. LOPEZ:

12 Q After the outbreak of the Russo-German war
13 did you or did you not know whether Japanese forces
14 in Manchuria were increased?
15

16 A I know they were increased.

17 Q You had something to do with the increasing
18 of those forces?

19 A In response to a demand made by the General
20 Staff Office I remember the War Minister acting in
21 connection with the increase in troop strength
22 and in the transportation of materials necessary.

23 MR. LOPEZ: May the witness be shown IPS
24 document 3104?

25 (Whereupon, a document was

1 handed to the witness.)

2 Q Do you recognize the document as coming from
3 your bureau, General? It is on pages 1 and 2 of
4 the English text.

5 A Well, this is a file of telegrams sent out
6 and received by the Foreign Office. I don't know
7 where the one you are talking about can be located.

8 Q Do you see the "Top Secret" seal on the
9 document?

10 A Yes, there is.

11 Q Do you see the name of the Military Affairs
12 Bureau and the date July 11, 1941?

13 A Yes, the words "Military Affairs Bureau"
14 are written in here in India ink.

15 Q Is the document authentic?

16 A Well, I cannot say on the basis of this
17 alone.

18 Q Would you say that the facts recited by the
19 document are true or not?

20 A Will you wait just a moment (examining a
21 document)?

22 Q General, to save time: I have reference
23 only to page 1.

24 A Well, I myself have no recollection of this
25 document at the moment, but it appears to be a

1 handed to the witness.)

2 Q Do you recognize the document as coming from
3 your bureau, General? It is on pages 1 and 2 of
4 the English text.

5 A Well, this is a file of telegrams sent out
6 and received by the Foreign Office. I don't know
7 where the one you are talking about can be located.

8 Q Do you see the "Top Secret" seal on the
9 document?

10 A Yes, there is.

11 Q Do you see the name of the Military Affairs
12 Bureau and the date July 11, 1941?

13 A Yes, the words "Military Affairs Bureau"
14 are written in here in India ink.

15 Q Is the document authentic?

16 A Well, I cannot say on the basis of this
17 alone.

18 Q Would you say that the facts recited by the
19 document are true or not?

20 A Will you wait just a moment (examining a
21 document)?

22 Q General, to save time: I have reference
23 only to page 1.

24 A Well, I myself have no recollection of this
25 document at the moment, but it appears to be a

1 study made by some young officer who was a member of
2 the Military Affairs Bureau.

3 Q You recognize that it passed through your
4 bureau?

5 A Well, it says "Military Affairs Bureau,"
6 but it does not have my seal nor any seal, so I am at
7 a loss to say.

8 THE INTERPRETER: Correction: The words
9 "Military Affairs Bureau" have been written on this
10 document or into this document, yes, but it does not
11 bear my seal nor the seal of anybody else, and there-
12 fore I am at a loss to say.

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1 Q You won't deny that it is authentic though?

2 A As I have said, I have hurriedly glanced
3 through this document and I do not recall this docu-
4 ment at all. The words "Military Affairs Bureau"
5 are written in India ink with brush and written into
6 the document but on the face of this document I
7 cannot say whether this actually is a document of
8 the Military Affairs Bureau.

9 MR. LOPEZ: We offer in evidence IPS
10 document No. 3104(2).

11 MR. COLE: Sir, we object to the admission
12 of this document on the basis that it has not been
13 sufficiently identified.

14 ACTING PRESIDENT: Objection sustained.

15 MR. COLE: I now ask that both this document
16 and the previous one be accepted for identification
17 only. That refers to documents 2570-B and 3104(2).
18 I should have said marked for identification.

19 CLERK OF THE COURT: Prosecution document
20 2570-B will receive exhibit No. 3457 for identifica-
21 tion only; prosecution document 3104(2) will receive
22 exhibit No. 3458 for identification only.

23 (Whereupon, the documents above
24 referred to were marked prosecution exhibits
25 No. 3457 and No. 3458, respectively, for

1 identification only.)

2 MR. LOPEZ: May the witness be shown IPS
3 document No. 3258?

4 Q On page 1 of that document there is a
5 statement "Read by Chief of Bureau MUTO (Seal)."
6 Is that the same MUTO?

7 A Yes.

8 Q Is this authentic this time?

9 A Yes.

10 Q Are you very sure?

11 A Yes, quite suré.

12 MR. LOPEZ: We offer in evidence IPS
13 document No. 3258.

14 ACTING PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution document
16 No. 3258 will receive exhibit No. 3459.

17 (Whereupon, the document above
18 referred to was marked prosecution exhibit
19 No. 3459 and received in evidence.)

20 MR. LOPEZ: We read from that exhibit the
21 following:

22 "Marginal Notes - No. 4.

23 "Period of preservation: Ten years.

24 "War Ministry Receipt, 1, No. 691 /Rubber
25 stamp/.

1 "Received by: War Minister's Secretariat
2 A.M. February 21, 1942 MAKI (seal).

3 "/Rubber stamp/ Intelligence Department,
4 War Ministry on February 27, 1942.

5 "/Rubber stamp/ Military Affairs Section
6 on February /date illegible/ 1942.

7 "Read by: Vice-Minister KIMURA (Seal);
8 Chief of Bureau MUTO (Seal): Military Affairs
9 Section Chief SATO (Seal); MIYAMOTO (Seal); HOTTA
10 (Seal); KAJIWARA (Seal); /one seal and one initial
11 illegible/

12 "Closed for file on March 14.

13 "To Intelligence Department.

14 "/Letter Number/ SEIHATSU No. 44, 1942.

15 "February 20, 1942.

16 "To: Vice War Minister.

17 "From: Acting Secretary-General, China
18 Affairs Board (Official seal).

19 "Subject: Re Round-Table Conference to be
20 Held by Liaison Section Chiefs of China Affairs Board.

21 "In reference to the above conference to be
22 held as per attached sheet, we shall be obliged if
23 you will arrange that a competent officer of your
24 Ministry (desirably the Director or the Chief
25 Officer of the Liaison Committee) to attend the

1 conference.

2 "We shall also appreciate if you will
3 arrange with Chief of the Military Affairs Bureau,
4 who is a member of the Liaison Committee, to attend
5 the meeting at the Premier's official residence on
6 March 5 to hear the Liaison Section Chief's reports
7 on the current situation, and the lunch at which the
8 President and the Vice-President will speak.

9 "Furthermore, we request you to send us an
10 officer who can explain the outline of the progress
11 of Army operations in the Greater East Asia War to
12 Chiefs of the Liaison Section for about fifty minutes
13 after 9:10 a.m. on the 5th of March."

14 Q General, in the face of this document do
15 you still insist that you were not a member of the
16 secret Liaison Committee of the China Affairs Board?

17 A You say "secret Liaison Committee." I was
18 a member of the Liaison Committee of the China Affairs
19 Board. That is where my misapprehension arises.

20 Q Secret or not secret, General, as you main-
21 tain now, was it not the duty of that committee to
22 act as the executive body to handle all affairs of
23 China in accordance with the Five Ministers' Confer-
24 ence?

25 A No, it was not.

1 Q Coming to another subject now, General,
2 in paragraph 21 of your affidavit you stated: "I
3 never called foreign military attaches myself to come
4 to my office." How about junior officers of the
5 foreign military attaches in Tokyo; did you not ask
6 for them to come to your office?

7 A We have never called them on our own part.

8 Q In October, 1941, did you not send for a staff
9 member of the United States Military Attache in Tokyo,
10 then Major F. D. Merrill, later on General Merrill
11 of the famous Merrill Marauders of the Burma campaign?

12 A We have never called military attaches on
13 our own part. When they wanted to come to see some-
14 body in our office they would telephone and if we were
15 disposed or we were conveniently disposed to see them
16 they came.

17 Q If General Merrill would say he was invited
18 to call, would you change your statement just made
19 now?

20 A I will not change my testimony.
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1 Q And was it not true that in your office you
2 told him, on October 8, 1941, "There is no longer any
3 real hope of settling the problems between our coun-
4 tries by talks between diplomats."

5 Language Section, please look up IPS docu-
6 ment No. 3211, the first paragraph.

7 "The matter is one for the armies to settle.
8 It is possible that the armies can do this without
9 fighting. Therefore, I think that you should en-
10 deavor to report to your superiors that Japan has a
11 good army. I do not care how you criticize us, but
12 you should be careful to say only the actual facts.
13 If you cannot convey to your people the true state
14 of things, I am afraid that I must give you a very
15 unpleasant farewell present. This present is simply
16 that, if an understanding is not reached, you will be
17 fighting us in six weeks in Manila." Did you tell
18 him that?
19

20 A That is absolutely contrary. In the first
21 place, I have not met a military attache of the
22 United States on the 8th of October. I remember
23 meeting a military attache of the United States on
24 the 7th of November at the Soviet Embassy on the
25 occasion of the anniversary of the Russian Revolu-
tion and having taken vodka with him. There is one

1 more recollection of my meeting somebody from the
2 United States Military Attache's Office, and that
3 was a young Captain, a very hale and hearty fellow,
4 who came to see me to pay a courtesy visit because
5 he was returning to his country in October; and thus
6 I absolutely deny the alleged statement made by the
7 military attache whose words you have quoted.

8 Q Then what day in 1941 did you abandon real
9 hope that diplomatic negotiations could settle the
10 problems between America and Japan?

11 A Well, as you would well remember, as I said
12 in my reply to an interrogation made by you, it was
13 after receipt of the Hull Memorandum of November 26.

14 Q So it was not around October, 1941 as
15 claimed in that purported interview between you and
16 Major Merrill of the United States Army.

17 A At that time we were most serious and ar-
18 dent and fastidious in our endeavors to bring about
19 a consummation of the negotiations.

20 Q In my interrogation of you a year ago,
21 General, I asked you about your knowledge of war
22 preparations at the time, didn't I?

23 A Yes.

24 Q You told me then that you knew of war prep-
25 arations made around October of 1941, and they were

1 speeded up after the receipt of the Hull note,
2 November 27, 1941.

3 A Yes, I do. At the same time I told you in
4 accordance with the Imperial decision of September
5 6, the policy was laid down to do everything in the
6 power of the Japanese Government through diplomatic
7 means to bring about understanding between Japan and
8 the United States; but, to guard against any possi-
9 bilities of failure in those negotiations, war prep-
10 arations were also to be carried out. And in that
11 sense I told you that war preparations were also
12 under way.

13 Q You told me, General, that you knew of the
14 war plans about landings in the Philippines, Singa-
15 pore and Malaya.

16 A No, I did not reply that way. I replied
17 that the General Staff Office may have been carrying
18 on such studies -- the study of such plans. There-
19 upon, you asked me, why do you know that? And to
20 that question put by you I said that that was the
21 duty of the General Staff Office, that it was its
22 duty to make studies of all possible situations and
23 in that light it would only be natural that they would
24 carry on various operational plans -- for studies
25 of various operational plans, and, therefore, they

1 probably did make a study of such operations.

2 Q Isn't it true that your office was engaged
3 in the frantic task of speeding up construction of
4 airports in Formosa way back in June of 1941?

5 A No.

6 Q And isn't it a fact that on the very first
7 day of the war in the Pacific bombers from Formosa
8 raided Clark Field, Cavite Naval Yard and other
9 installations in the Philippines?

10 May the witness be shown IPS document
11 3257?

12 ACTING PRESIDENT: Did the witness answer
13 that last question?

14 THE INTERPRETER: No, sir.

15 Q (Continuing) I understand you have not
16 answered yet my last question.

17 A I was unable to reply because you went on
18 to another question before I intended to reply.

19 Q Will you reply now, please?

20 A Clark Field was attacked after the opening
21 of hostilities.

22 Q By bombers from Formosa, isn't that true?

23 A Yes.

24 Q In IPS document No. 3257, see if you cannot
25 find on the fourth line "Originating Office, Name of

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Section, Military Affairs Section."

1

A Yes.

2

Q Do you also see your name there as Bureau
3 Chief in charge, "LUTO"?

4

A Yes.

5

ACTING PRESIDENT: We will adjourn until
6 half-past one.

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(Whereupon, at 1200, a recess
was taken.)

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1 AFTERNOON SESSION

2 The Tribunal met, pursuant to recess, at 1330.

3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the Far East is now resumed.

5 ACTING PRESIDENT: With the Tribunal's per-
6 mission, the accused OSHIMA will be absent from the
7 courtroom the whole of the afternoon session conferring
8 with his counsel.

9 Mr. Lopez.

10 - - -

11 A K I R A M U T O; an accused, resumed the stand
12 and testified through Japanese interpreters as
13 follows:

14 CROSS-EXAMINATION

15 MR. LOPEZ: If the Tribunal please, may I
16 have the last question repeated back, last two ques-
17 tions?

18 (Whereupon, the last two questions
19 and answers were read by the official court
20 reporter as follows:

21 "Q In IPS document No. 3257 see if you can't
22 find on the fourth line 'Originating Office,
23 Name of Section, Military Affairs Section.'

24 "A Yes.
25

1 "Q Do you also see your name there as
Bureau Chief in charge, 'MUTO'?

2 "A. Yes.")

3 BY MR. LOPEZ (Continued):

4 Q This is an authentic document?

5 A. No. This is an authentic document.

6 THE MONITOR: Strike out "No," please.

7 MR. LOPEZ: We offer in evidence IPS document
8 3257.

9 ACTING PRESIDENT: I didn't understand his
10 answer to the last question. Did he say that was an
11 authentic document?

12 THE INTERPRETER: Mr. President, the witness
13 replied: "This is an authentic document."

14 ACTING PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Do you want that book
16 identified, Mr. Lopez?

17 MR. LOPEZ: Please.

18 CLERK OF THE COURT: "Second Great Diary, War
19 Ministry," bound volume printed in Japanese, will receive
20 exhibit No. 3460 for identification only; the excerpt
21 therefrom, being prosecution document 3257, will receive
22 exhibit No. 3460a.)

23 (hereupon, "Second Great Diary, War
24 Ministry," was marked prosecution exhibit
25

1 No. 3460, the excerpt therefrom being marked
2 prosecution exhibit No. 3460a and received in
3 evidence.)

4 MR. LOPEZ: From that exhibit I will read the
5 following:

6 "/Urgent/ No. 2

7 "Copyist of draft plan: YOKOTA

8 "Receipt No.: Report No. 5708

9 "Originating Office (Name of Section): Military
10 Affairs Section.

11 "Subject: Re preparations for aerial operations
12 in Formosa.

13 "Term of preservation: 3 years.

14 "Authorization by: Vice Minister

15 "Enforcement by: MATSUYAMA

16 "Minister: leaves the matter to others.

17 "Vice-War Minister: KIMURA

18 "Senior Adjutant: MATSUYAMA

19 "Bureau Chief in Charge: MUTO

20 "Adjutant in Charge: MATSUYAMA

21 "Section Chief in Charge: SANEDA

22 "Section Member in Charge: Kingo, MURATA

23 "Bureau and Section in Charge: Number: Report
24 No. 411

25 "Minister's secretariate: Received, 14 June -

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1 "Secret
2 "Decoded Telegram: despatched at 10.05, 10 June
3 received at 11.00, 10 June
4 "To: Minister
5 "Despatched by: Commander-in-chief of Formosan
6 Army.
7 "Tai-Den /Formosa-telegram/ No. 412
8 "The first stage of construction work at
9 Chaochow and Hengchun airfields have been completed.
10 Transmitted to Army and Air Headquarters. (End)
11 "Names appearing on marginal space:
12 "Lieutenant Colonel: OTSUKI
13 "Budget Group
14 "Military Affairs: OTSUKI
15 "T.N.K.: Kingo, MURA: KOHON (Air Headquarters)
16 (SATO)
17 "Report No. 5708.
18 "War Ministry)
19 "30 June 1941 - P.M.) STAMP
20 "Minister's Secretariate)
21 "Air Headquarters)
22 "1 July, 1941) STAMP
23 "Received)
24 "Secret
25 "Decoded telegram: despatched at 13.40, 30 June

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1 "received at 14.20, 30 June
2 "To: Vice Minister of War
3 "Despatched by: Chief of Staff of Formosan Army.
4 "Tai-Den /Formosa-telegram/ No. 572
5 "I am determined to meet your expectations
6 by making further efforts toward the completion of the
7 remaining work. I ask for your kind guidance. (End)
8 "Riku-Mitsu-Den No. 213 /Army-secret-telegram/
9 "Names appearing in marginal space:
10 "Military Affairs, NISHIURA; Kingo, MURATA;
11 MATSUSHITA; TANAKA; KATOGAMA; OTSUKI
12 "Air Headquarters The 1st Section
13 "General Staff Headquarters
14 "AKIYAMA; SATO; TAKAGI; SUSUMU, KONDO
15 "/signature indistinct/"
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1 Q Now, turning to another subject, General,
2 in the English text of your affidavit, paragraph 15,
3 I read that you called Hitler and Mussolini upstarts.
4 Is the translation into English correct?

5 A In Japanese I said parvenu.

6 Q May I know if the English term "upstarts" is
7 exactly what you say in Japanese?

8 A I do not know.

9 Q Well, have you called Hitler and Mussolini
10 upstarts in accordance with your affidavit?

11 A Yes, that is the meaning.

12 Q From what I could gather from your affidavit
13 you had such deep-seated distrust and contempt of Hit-
14 ler and Mussolini that you didn't hesitate to make
15 known your feelings to your Japanese friends like
16 Colonel IWAKURO and even to Germans like Colonel Groner.
17 Am I right?

18 A You are not reading my affidavit correctly.
19 I set out at first that in Japan there was opinion that
20 such parvenus as Hitler was not dependable. And fol-
21 lowing that I expressed my own views vis-a-vis Germany,
22 stating that Hitler at the time of World War 1 was a
23 mere first-class private, and Mussolini a sergeant.
24 It is only the latter part that I spoke to Colonel
25 Groner.

1 ACTING PRESIDENT: It may not be material,
2 but your reference to Hitler and Mussolini is in
3 paragraph 19, not paragraph 15.

4 Q What did you say to Colonel Groner?

5 A As I have already told you, I told Colonel
6 Groner that Hitler was a first-class private and
7 Mussolini a sergeant at the time of World War 1, and
8 that such persons, whatever they might do, and even
9 though they might fail, they could be heroes of their
10 age. However, I continued to tell him that Japanese
11 statesmen could not possibly do anything in the manner
12 of Hitler or Mussolini because Japan had a kokutai, a
13 fundamental character of the state, with a history of
14 three thousand years, and Japanese statesmen were duty-
15 bound as loyal subjects of Japan to exercise the utmost
16 care to see that this kokutai is unblemished.

17 Q You told him that you were against the Tri-
18 partite Alliance?

19 A I did not say that I was opposed to the Tri-
20 partite Alliance, but I told him other things which I
21 have just mentioned to you.

22 Q And he smiled approvingly, as you said?

23 A Yes.

24 Q And is it also correct, my understanding,
25 that whenever you had a chance to talk with advocates

1 for concluding the Tripartite Alliance you invariably
2 told them of your very low estimate of Hitler and
3 Mussolini and convinced them that "It was dangerous
4 for Japan to conclude an alliance with Hitler and
5 Mussolini"?

6 A I am not saying that I said this at all
7 times, but I have spoken to this effect frequently.

8 Q Aside from MATSUOKA, who is dead, would you
9 say who of the outstanding Japanese leaders in 1940
10 and 1941 now living who advocated strongly for the
11 alliance with Germany and to whom you voiced your
12 opinion that the alliance was prejudicial and ruinous
13 for Japan?

14 A I have expressed my beliefs and sentiments
15 to my subordinates, but I have never had any occasion
16 to express them to such a big statesman as MATSUOKA.

17 Q Didn't you feel it was your duty as one who
18 always attended liaison conferences, Imperial confer-
19 ences, and meetings of the Privy Council to inform
20 them that in your honest judgment it was ruinous for
21 Japan to enter into such alliance -- to people like
22 MATSUOKA?

23 A There was no occasion or opportunity for
24 MATSUOKA and me to discuss such matters, nor had I
25 the authority or the qualification to say anything to

1 him.

2 Q Did you express your view against the alliance
3 to Premier TOJO, War Minister TOJO?

4 A War Minister TOJO knew of my beliefs on that
5 matter.

6 Q He was also of your belief against the al-
7 liance?

8 A I think so, because I know of no occasion
9 in which General TOJO on his own initiative advocated
10 any such alliance.

11 Q Then we could say that during the month, or
12 two months before the conclusion of the Tripartite
13 Pact in the whole Japanese Government at that time
14 only MATSUOKA was for the alliance?

15 A It would be more correct to say that Foreign
16 Minister MATSUOKA advocated the alliance, and that
17 others agreed with him.

18 Q When you say "others," can we include War
19 Minister TOJO?

20 A Yes.

21 Q Can we include you?

22 A I submitted.

23 MR. LOPEZ: May I have the last answer, please?

24 (Whereupon, the answer was read
25 by the official court reporter.)

1 THE INTERPRETER: Another expression would
2 be: I obeyed.

3 Q In the beginning did TOJO oppose it?

4 A War Minister TOJO's position was that the
5 matter of primary importance to Japan was the settle-
6 ment of the China Affair, that all diplomacy must be
7 flexible and constructive, and should not be station-
8 ary and difficult of application. Standing on this
9 position of his -- correction, please: I do not know
10 how War Minister TOJO, standing on this position of
11 his, responded to Foreign Minister MATSUOKA in his
12 advocacy of the Tripartite Alliance.

13 Q Can we take it as a fact that around the
14 military circles in Tokyo you were known to be
15 against the conclusion of the Tripartite Pact, General?
16

17 A Yes, you may so understand.
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1 Q Then, are we to believe now that the personnel
2 of the German Embassy, the German military attache and
3 the German intelligence in Japan committed a colossal
4 diplomatic blunder by recommending for one of the
5 highest military honors that their country could bestow,
6 the man who mistrusted and who opposed the conclusion
7 of the Tripartite Pact?

8 A It seems to me that your statement is a little
9 bit far-fetched. The facts are these: Once the
10 Tripartite Alliance had been concluded at the insistence
11 of Foreign Minister MATSUOKA, the various collateral
12 business related thereto would be handled, in the case
13 of the War Ministry, by the Military Affairs Bureau.
14 In this case the personal opinion or position of MUTO
15 is of no consequence whatsoever, and I must work within
16 the bounds of the duties assigned to me. I was even
17 nominated as a member of the Joint Commission of Experts.
18 After passing through such a course, I would naturally
19 become one of those who would be recommended by the
20 War Ministry as being a candidate for receiving a
21 decoration -- that is, one of those qualified to be
22 considered as a candidate to receive a decoration.
23 Hence, the Foreign Office in Germany did not make any
24 blunder.
25

Q I take it, then, that as a good soldier you

1 merely followed the decision after it was made, not-
2 withstanding the fact that personally you were against
3 the pact and that you frequently voiced your opposition
4 to it in the hope that it would not be concluded?

5 A Your understanding is correct.

6 Q And if I understand it right, that you had
7 active interests in the beginning to see to it that it
8 was not concluded, but when it came you had to bow down
9 to that decision?

10 A Yes.

11 Q General, you remember that we talked about
12 this matter when you and I were at Sugamo -- you were
13 at Sugamo?

14 A Yes, I think on something of a like nature.

15 Q Is it not true that I asked you the following
16 questions, and you answered in the following manner:

17 "Q And when you returned to Tokyo you became
18 in favor of such a pact?

19 "A There was no question of favoring it or
20 not favoring it at the time. I do not believe that
21 the question of the Three Powers Pact came up in the
22 days when HATA was Minister of War.

23 "Q Didn't you ask HATA to demand of YONAI
24 that Japan enter into such a pact?

25 "A I have no recollection of having said any

1 such thing.

2 "Q You believed in it at that time, didn't
3 you?

4 "A I had no interest in a pact of this kind
5 at the time."

6 Is that a true reflection of what happened
7 in our interrogation there, General?

8 A Yes.

9 Q Further in the same interrogation of that day,
10 the following questions were addressed to you, to which
11 you made the following answers:

12 "Q Didn't you feel that Germany was going to
13 win the war and therefore you were a very ardent advo-
14 cate of the Tripartite Pact?

15 "A I did not advocate it.

16 "Q Did you disagree with the signatories
17 formulating such a pact?

18 "A As an individual I was in favor of it,
19 but as I told you this morning, in my official capacity
20 I had no say in matters of policy..."

21 Does it not reflect what you and I were talk-
22 ing about?

23 A That part of the interrogatory which says that
24 I approved of it is erroneous. I said I was not in
25 favor of it.

1 THE MONITOR: Slight correction: The passage
2 in the interrogatory in which I am represented as
3 saying I was in favor of it is a mistake. I said I
4 was not in favor of it.

5 Q Further in that interrogation, General, didn't
6 I address to you the following questions, and you
7 make the following answers:

8 "Q And in your official capacity, didn't you
9 frequently advise TOJO that such a pact would be
10 advisable and helpful to Japan in her efforts in settling
11 the China Incident?

12 "A It was my job to gather together various
13 points of view and present them to War Minister TOJO.
14 In the paper that I presented to him, there might have
15 been some statement advocating the binding of the Three
16 Powers Pact, but I have no clear recollection of it.

17 "Q You feel, though, that there was such a
18 recommendation?

19 "A I know that such feelings were very strong
20 within the military.

21 "Q And your feelings, also, in your official
22 capacity?

23 "A No, I did not personally advocate it.

24 "Q But you did do so in your capacity as
25 Chief of the Military Affairs Bureau?

1 "A In my official capacity it was my job to
2 keep in contact with the head of the Naval Affairs
3 Bureau and to finally present the majority opinions to
4 the War Minister."

5 A If throughout this interrogation you were to
6 say, instead of "I favored it," "I was not in favor
7 of it," then the interrogation would be correct.

8 THE MONITOR: Slight correction: Strike out
9 "interrogation" and insert "interrogatory."

10 Q General, in paragraph 20 of your affidavit,
11 you talk of KONOYE's new party movement. That movement
12 gained great momentum after the fall of France in
13 June, 1940, when the Japanese military threw its whole
14 support behind it, isn't it true?

15 Did not the army support the new political
16 movement because the movement called for the dissolution
17 of existing political parties, the strengthening of
18 the Japanese-German-Italian Axis, the conservation of
19 the China gains, and establishment of a new order in
20 East Asia in parallel to the new order in Europe?

21 A I don't know what you read from.

22 Q Is it true or is it not true?

23 A It is a fact that the army agreed to approve --
24 approved of Prince KONOYE's movement for a new party to
25 bring about a renovation of the domestic situation.

1 "A In my official capacity it was my job to
2 keep in contact with the head of the Naval Affairs
3 Bureau and to finally present the majority opinions to
4 the War Minister."

5 A If throughout this interrogation you were to
6 say, instead of "I favored it," "I was not in favor
7 of it," then the interrogation would be correct.

8 THE MONITOR: Slight correction: Strike out
9 "interrogation" and insert "interrogatory."

10 Q General, in paragraph 20 of your affidavit,
11 you talk of KONOYE's new party movement. That movement
12 gained great momentum after the fall of France in
13 June, 1940, when the Japanese military threw its whole
14 support behind it, isn't it true?

15 Did not the army support the new political
16 movement because the movement called for the dissolution
17 of existing political parties, the strengthening of
18 the Japanese-German-Italian Axis, the conservation of
19 the China gains, and establishment of a new order in
20 East Asia in parallel to the new order in Europe?

21 A I don't know what you read from.

22 Q Is it true or is it not true?

23 A It is a fact that the army agreed to approve --
24 approved of Prince KONOYE's movement for a new party to
25 bring about a renovation of the domestic situation.

1 Q Isn't it true that the army wanted KONOYE
to replace YONAI as Premier?

2 A It was thought desirable that if there should
3 be a change in cabinet following the resignation of
4 the YONAI Cabinet that it would be desirable to have
5 KONOYE head the succeeding cabinet.

6 Q You state in paragraph 20 of your affidavit
7 that the conclusion of the Tri-Partite Pact was not
8 pressed upon the government, and that HATA supported
9 the YONAI Cabinet policy of noninvolvement in the
10 European War.

11 Isn't it true that about the beginning of
12 July 1940 it was already publicly known in Japan
13 that in military circles the sentiment was gaining
14 to alter the diplomatic policy of noninvolvement in
15 the European War and instead promote KONOYE's move-
16 ment for a new political structure and strengthen the
17 Japanese-German-Italian Axis?

18 A That is entirely contrary to facts, and the
19 matter could not have been publicly known.

20 Q Was it not known very widely at the time,
21 even in the press of Japan, that HATA was going to
22 visit YONAI and advise him to strengthen the Japanese-
23 German-Italian Axis and support the new political
24 structure movement?
25

1 A In so far as I know that is entirely con-
2 trary to the ideas and intentions of General HATA.

3 Q Are you familiar with the Tokyo Nichi Nichi,
4 just published here in Japan before the war?

5 A Yes, I do.

6 Q If I read to you the headline of Nichi Nichi
7 of 10 July 1940, would that give you any recollection
8 of the fact that HATA was going to visit YONAI in
9 order to have the policy of noninvolvement altered
10 and to strengthen the Tri-Partite Axis? What is your
11 answer, please?

12 A Well, it does not refresh my memory. I
13 thought you were going to read it for me.

14 MR. LOPEZ: May the witness be shown
15 document 3184-B?

16 (Whereupon, a document was handed to
17 the witness.)

18 A Well, there seems to be a very big playup
19 in this newspaper about a probable advice to be given
20 by General HATA to the Prime Minister, but this is
21 entirely contrary to fact, and I do not believe that
22 any such advice was ever given.

23 Q The Nichi Nichi had quite a circulation in
24 Japan at the time, didn't it?

25 A Yes, the circulation seems to have been large.

1 Q Would you say over a million a day?

2 A That I do not know.

3 Q What portion of that story, news story in
4 3184-B do you affirm to be not truthful or reflective
5 of the facts?

6 A Well, the entire news item is a sort of
7 prediction story, and I deny the entire contents.

8 Q Sometime in the middle of July, 1940, you
9 and Vice-Minister ANAMI demanded of Chief Secretary
10 ISHIWATA the mass resignation of the cabinet in order
11 to realize KONOYE's political order, and when ISHI-
12 WATA refused your demand you and ANAMI stated to him
13 that there was nothing to be done but call for the
14 resignation of HATA.,

15 Did it not come to your notice that YONAI on
16 the next day mentioned the incident to HATA, who
17 replied that that opinion expressed by you and General
18 ANAMI was only your own personal opinion?

19 A That also is contrary to fact.

20 Q Isn't it true that on July 16, 1940 War
21 Minister HATA, after conferring with you, General
22 ANAMI, the Big Three, and the War Councilors, finally
23 handed in his resignation to YONAI in order to enforce
24 the will of the army?

25 A That, too, so far as I am concerned is also

incorrect.

1 MR. LOPEZ: If the Tribunal please, at this
2 stage of the proceedings, 2:30 in the afternoon, I
3 do not feel that I can go on with the cross-examina-
4 tion of this witness. I have not been feeling very
5 well. I have been trying to do my best to cooperate
6 with the Tribunal, but my head has been dizzy and I
7 can't catch what you are saying to me. I would take
8 advantage of an instruction given for me to stop at
9 exactly 2:30 with my cross-examination.
10

11 I apologize to the Tribunal about the confused
12 and disordered state of my cross-examination and my
13 inability to ask this witness about questions based
14 on documents which I feel are important in enforcing
15 the case of the prosecution.

16 ACTING PRESIDENT: The Tribunal is certainly
17 not going to instruct you to stop your cross-examina-
18 tion. That is at your discretion.

19 Mr. Tavenner.

20 MR. TAVENNER: If it please the Tribunal,
21 quite apparently counsel is not well at the moment.
22 I believe if the Tribunal would take its usual
23 fifteen-minute recess at this time that he may be
24 prepared to go on with his cross-examination at the
25 end of that time, which I hope he will.

1 ACTING PRESIDENT: We will recess for
2 fifteen minutes.

3 (Whereupon, at 1435, a recess was
4 taken until 1500, after which the proceed-
5 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If the Tribunal please, I regret
5 very much to advise the Tribunal that the physician in
6 the dispensary here has told us that under no condi-
7 tions should Major Lopez continue with the cross-
8 examination today.

9 During this recess I have endeavored to get
10 ready the testimony that was taken on commission and
11 have it read this afternoon, but at least one counsel
12 who is interested in making objections is not present,
13 and we cannot present that.

14 In order to save time, counsel for OKA, the
15 next accused whose phase will be presented, is ready
16 to proceed with his phase if it is agreeable to counsel
17 for MUTO. If it is agreeable to counsel for MUTO we
18 would like to ask that the cross-examination be suspended
19 until Monday morning.

20
21 ACTING PRESIDENT: Whether or not it is agree-
22 able to the counsel for MUTO, the Tribunal feels that
23 they do not care to have the cross-examination of the
24 accused MUTO interrupted at this time. Under those
25 circumstances, the Court feels that it should adjourn
until 9:30 Monday morning, and in case Mr. Lopez is not

1 able to continue the cross-examination Monday morning,
2 we feel that the prosecution should have somebody else
3 ready to take up the cross-examination.

4 The Court will adjourn until 9:30 Monday morn-
5 ing.

6 (Whereupon, at 1507, an adjournment
7 was taken until Monday morning, 17 November
8 1947, at 0930.)
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17 NOVEMBER 1947

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2679-A	3461		Certificate of non-availability of certain documents referred to in MUTO's testimony		33282
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2833	3463		Excerpt from the Parliament Member Election Law (Effective 1940 and 1941)		33283
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Monday, 17 November 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 With the Tribunal's permission, the accused
9 SHIRATORI will be absent from the courtroom the whole
10 of the morning session conferring with his counsel.

11 With reference to the affidavits of certain
12 witnesses in the Russian phase whose presence for cross-
13 examination has not been secured, the Tribunal, by a
14 majority vote, will take into consideration the affidavit
15 of the witness KITA, Seiichi, exhibit 835. The affidavits
16 of the following deponents will be disregarded by the
17 Tribunal: Major General AKIKUSA, Shun, exhibit 743;
18 Lieutenant General YAMAGITA, Genzo, exhibit 723; General
19 USHIROKU, Jun, exhibit 703; Major General OTSUBO,
20 Kajuma, exhibit 837; and Lieutenant General TOMINAGA,
21 Kooji, exhibit 705.

22 I omitted to read here that the affidavit of
23 the witness KITA, Seiichi will be taken into consider-
24 ation for such probative value as it may have.

25 Mr. Tavenner.

1 A K I R O M U T O, an accused, resumed the stand
2 and testified through Japanese interpreters as
3 follows:

4 MR. T. VENNIR: If the Tribunal please, I regret
5 to advise you that upon doctor's orders Mr. Lopez will
6 not continue the cross-examination of this witness. If
7 it is the Tribunal's pleasure, Mr. English will con-
8 tinue with the cross-examination.

9 ACTING PRESIDENT: Mr. Cole.

10 MR. COLI: May it please the Tribunal, I
11 sincerely regret the illness of Mr. Lopez and I don't,
12 under any circumstances, want to extract any advantage
13 from it. I mean no discourtesy to him or to the prose-
14 cution in general in making objection to the proposed
15 procedure.

16 The cross-examination of the accused has already
17 been interrupted and further or continuation of that
18 interruption will certainly harm no one. The Tribunal
19 has already ruled very definitely in regard to cross-
20 examination of any witness, let alone an accused, by
21 more than one prosecutor. The latest instance of
22 which I am aware is that which arose in the case of
23 the accused ITAGAKI at which time the Tribunal refused
24 a similar request on record page 30,485. Briefly, I
25 feel that it is a distinct disadvantage not alone to

1 any ordinary witness but to an accused to have a sub-
2 stitution in the midst of cross-examination, and I
3 object to that procedure.

4 ACTING PRESIDENT: Mr. Tavenner.

5 MR. TAVENNER: If the Tribunal please, it is
6 hardly necessary to remind you that the ruling of the
7 Tribunal is that two attorneys shall not engage in cross-
8 examination without permission of the Tribunal. We
9 think the disadvantage in making a change during the
10 course of cross-examination is with the prosecution
11 rather than with the defense. We prefer that there be
12 no delay in disposing of this phase of the case. And
13 I am just reminded of the fact that the Court ruled on
14 that matter Friday.

15 MR. COLF: One more brief observation, if the
16 Tribunal please, and that is that even if we proceed as
17 proposed the case for the accused MUTO cannot be con-
18 cluded presently. The question regarding the proposed
19 witness Colonel ISHII is still open depending upon the
20 condition of his health.

21 MR. TAVENNER: Since the matter of the witness
22 ISHII has been raised, I would like to make a statement
23 in regard to it.

24 ACTING PRESIDENT: Very well.

25 MR. TAVENNER: With regard to defense document

1 2786, the affidavit of ISHII whose testimony was to
2 be taken on commission, in view of the present cir-
3 cumstances the prosecution is willing to and does
4 withdraw its objection to the reading in evidence of
5 the affidavit at this time, reserving, however, with
6 the Tribunal's permission, the right at a later date
7 to submit interrogatories, conduct cross-examination
8 on commission, or such other action as the prosecution
9 is advised may be proper.

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1 ACTING PRESIDENT: What has the defense to
2 say as to that?

3 MR. COLE: May I beg the Court's indulgence
4 for a moment, please?

5 May the Tribunal please, I regret that I
6 was discussing with counsel another matter at the
7 time of Mr. Tavenner's statement.

8 I believe it was my own suggestion, sir,
9 that the matter in regard to Colonel ISHII be handled
10 by interrogatories. I have no objection to the sug-
11 gestion of Mr. Tavenner if in addition to that we can
12 be permitted further direct examination of Colonel
13 ISHII beyond the scope of this present affidavit.

14 ACTING PRESIDENT: I assume you mean by that
15 further evidence in the nature of redirect examination
16 that might be brought out by cross-examination if he were
17 a witness here in court.

18 MR. COLE: That is included, sir, but I had
19 in mind particularly matters which developed in the
20 examination of the witness YAMAMOTO last week.

21 Our only consideration in discussing Colonel
22 ISHII is the matter of his health, that is the only
23 consideration.
24

25 ACTING PRESIDENT: If that is your desire,
should you not put that in by way of further affidavit

1 so that the prosecution will have a chance to put in
2 cross-interrogatories on that if they desire?

3 MR. COLE: We are willing to do that, sir.

4 ACTING PRESIDENT: That will be satisfactory.

5 With reference to Mr. Lopez, the Tribunal is
6 sorry to hear of his continued illness. With reference
7 to the objection of the substitution of Mr. English
8 as cross-examiner, the Tribunal will remember that
9 last Friday -- or you will remember that last Friday
10 the Tribunal expressed its desire that if Mr. Lopez
11 was not able to continue his cross-examination today
12 that some other member of the prosecution take it up.
13 This is a special circumstance in which a variation
14 from our rule may well be taken.

15 The objection is overruled, and Mr. English
16 may continue with the cross-examination.

17 MR. ENGLISH: May it please the Tribunal--

18 ACTING PRESIDENT: Mr. English.

19 CROSS-EXAMINATION (Continued)

20 BY MR. ENGLISH:

21 Q General, did you and War Minister ANAMI, Vice
22 War Minister ANAMI visit Chief Cabinet Secretary
23 ISHIWATA on or about 11 July 1940?

24 A No. I visited Cabinet Secretary ISHIWATA alone.

25 Q Did not you and ANAMI state at that time that

1 in order to realize KONOYE's new political order you
2 would like to have the cabinet resign?

3 A No, that is wrong. As I just told you,
4 Vice Minister ANAMI did not go.

5 Q At that conference didn't ISHIWATA disapprove
6 of your ideas, and did he not say, "Then there is
7 nothing to be done but to force the resignation of
8 the War Minister?"

9 A No, I didn't.

10 Q It is a fact--

11 THE MONITOR: Just a moment, please.

12 THE INTERPRETER: He didn't.

13 Q I meant to say did you not say, "There is
14 nothing to be done but to force the resignation of
15 the War Minister?"

16 A No, I didn't either.

17 Q It is a fact, General, is it not, that three
18 days later, on the 14th of July 1940 that the War
19 Minister handed a written memorandum to Minister --
20 Prime Minister YONAI?

21 A I did hear that the War Minister had handed
22 a letter to the Prime Minister, but I do not know
23 myself whether that was a fact or not.

24 ACTING PRESIDENT: May I ask what that date
25 was?

1 Mr. ENGLISH: 14 July 1940.

2 Q General, did not this memorandum state that
3 the strengthening of the domestic organization and
4 the reformation of the foreign policy had become the
5 most pressing problems facing the cabinet?

6 A As I have been telling you, I know nothing
7 of its contents.

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1 Q And, General, did not War Minister HATA
2 further state in this memorandum that the Government
3 was doing nothing and losing an opportunity that
4 would never come again?

5 A As I have been telling you repeatedly, I
6 do not know anything about its contents.

7 Q Did not HATA, at that time, suggest the
8 resignation of the Cabinet?

9 A As I have been telling you, I did hear at
10 the time that General HATA had sent -- had presented
11 the Prime Minister with a letter, but I also told you
12 that I did not know about its contents.

13 MR. ENGLISH: I refer the Tribunal, in
14 connection with those questions, to exhibit 3199-A,
15 record page 28,941.

16 ACTING PRESIDENT: I have a question from a
17 Member of the Tribunal.

18 For what purpose did you go to see ISHIWATA
19 on the 11th of July, 1940?

20 THE WITNESS: As is stated in my affidavit,
21 I was given the duty of being one of those to welcome
22 the Emperor of Manchukuo and I had gone to the Osaka-
23 Kyoto area in the beginning of July. When I returned
24 to Tokyo on the 9th or 10th of July, I found that
25 the War Minister had received a very strong document

1 from the General Staff embodying its strong opinions.

2 This also is included in my affidavit.

3 Because of this note, the War Minister's
4 position -- War Minister HATA's position had become
5 very difficult. The reason was that when War Minister
6 HATA assumed his portfolio he received a very strong
7 demand from the Emperor that he cooperate with
8 Prime Minister YONAI. Therefore, War Minister HATA,
9 who since the establishment of the YONAI Cabinet had
10 fully cooperated with it, was suddenly faced by these
11 demands of the General Staff which even might lead
12 to a demand for the general resignation of the Cabinet.

13 When I called on War Minister HATA on the
14 10th or 11th of July, after returning from my trip,
15 I heard from him that he and YONAI had had a
16 conversation. HATA told YONAI on that occasion that
17 Prince KONOYE was establishing a new party and was
18 about to set out on the formation of a new political
19 structure. Public opinion supported him overwhelmingly.

20 And in conclusion HATA advised the Premier
21 to call on KONOYE and find out just what thoughts
22 KONOYE had. At that time YONAI replied -- HATA told
23 him that YONAI replied that he was a Navy man, that
24 he had nothing to do with political parties and that
25 if Prince KONOYE was really going to set about

1 creating a really splendid new party, he would
2 certainly be happy to relinquish his post. He had
3 no political desires.

4 General HATA was very anxious to hear the
5 results of Premier YONAI's conversations with KONOYE,
6 but no word came from the Premier on that matter. That
7 is why I called on Chief Secretary ISHIWATA; first,
8 to find out what the results of the Premier's
9 conversations with KONOYE -- first, to find out the
10 Premier's state of mind, and, second, to explain
11 General HATA's difficult position.

12 ACTING PRESIDENT: Go ahead, Mr. English.

13 BY MR. ENGLISH (Continued):

14 Q General, it is a fact, isn't it, that HATA
15 resigned on 16 July, 1940?

16 A Yes.

17 Q It is also a fact that when asked by Premier
18 YONAI to recommend a successor, HATA reported to the
19 Premier on the same day, that is, 16 July, 1940, that
20 the Three Chiefs Conference had no one to recommend
21 as his successor for War Minister?

22 A What you have just said is at variance with
23 what I know of the facts.

24 Q And did not the failure of the military to
25 recommend a successor for War Minister HATA force the

resignation of the YONAI Cabinet?

1 A I heard that on the 16th, when Premier YONAI
2 had a conference with General HATA, the two failed
3 to come to an agreement of views, and, thereupon,
4 Premier YONAI said "I must ask you to resign" -- told
5 HATA: "I must ask you to resign." Furthermore, Premier
6 YONAI is reported to have told War Minister HATA on
7 that occasion: "I don't suppose that we will be
8 able to find a successor for your post." General
9 HATA replied: "Well, I can't say anything here by
10 myself. I will have to go back to the War Ministry
11 and see the results of the Three Chiefs Conference
12 and then return to the War Ministry."

13 Then, the Three Chiefs -- the Three Army
14 Chiefs -- met with each other, and although I do not
15 know the contents of their conference, they finally
16 came to the conclusion that there was no one who
17 wished to accept a post as War Minister in succession
18 to General HATA. Thereupon, General HATA returned
19 to the Cabinet and reported that decision to the
20 Prime Minister.

21 Those are the facts which I know about the
22 circumstances of the fall of the YONAI Cabinet.

23 Q Then, it is true, General, that immediately
24 after the fall of the YONAI Cabinet, the Three Chiefs
25

Conference recommended TOJO as the next War Minister?

1 A I know nothing about the contents of the
2 Three Chiefs Conference. I believe the things
3 happened -- I believe that the testimony of Lieutenant
4 General NODA, who was then Chief of the Personnel
5 Bureau of the War Ministry, is true on this point.
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1 Q General, in paragraph 20 of your affidavit,
2 you gave as the cause of the fall of the YONAI
3 Cabinet the fact that the General Staff was so
4 anxious to have the China Affair settled as soon as
5 possible that it demanded that Germany mediate be-
6 tween Japan and China and that the cabinet solidify
7 the internal affairs, and because the YONAI Cabinet
8 did not show earnest response to these demands, the
9 Army urged HATA to resign.

10 Isn't it true, General, that at Sugamo
11 Prison, during an interrogation on 14 April 1946,
12 you gave an entirely different version of the fall
13 of the YONAI Cabinet, when you gave the answer to this
14 question:

15 "Q Why did the YONAI Cabinet fall?

16 "A As I remember, it was sometime during
17 the summer of 1940, at a time when the Emperor of
18 Manchuria was on a visit to Japan, the Foreign Office
19 came out with a statement listing the three spheres
20 of influence in the world, dividing them into the
21 Far East, dominated by Japan, the Americas, and
22 Europe. The Army opposed this announcement, and,
23 to complicate matters, the Foreign Office stated
24 that the Army had opposed it, so that I recall that,
25 on my return from Ise where I had been with the

1 Manchukuoan Emperor, the War Minister was very dis-
2 turbed about how the Army felt about it and the way
3 some of the younger officers in the Army were react-
4 ing to the announcement. Ultimately, he resigned,
5 and that brought about the downfall of the YONAI
6 Cabinet."?

7 A In my affidavit, I have stated the general
8 reasons, and in my interrogation I stated the direct
9 reasons why the General Staff got angry.

10 Q Isn't it a fact that immediately after he
11 was directed by the Emperor to form a new cabinet,
12 KONNYE, on 20 July 1940, issued the following state-
13 ment for the press, which statement, of course, was
14 publicized generally throughout Japan:

15 "I cannot disclose the nature of my dis-
16 cussions today with Lieutenant-General TOJO, Vice-
17 Admiral YOSHIDA, and Mr. MATSUOKA, but I can state
18 clearly that a complete agreement was reached con-
19 cerning the fundamental foreign policies of the
20 nation. The contents of this discussion will be
21 revealed formally after the first session of the
22 cabinet upon its completion. The discussions
23 touched on the issues concerning the disposal of
24 the China Incident, strengthening the Germany-
25 Italy-Japan Axis, and the relations with the

1 United States, Great Britain, and the Soviet Union,
2 as well as harmonization and co-operation between
3 the military high command and the civil admini-
4 stration." ?

5 A There may have been such an announcement.
6 I do not recall it.

7 Q Before he assumed the premiership, did
8 not KONOYE, on 23 July 1940, in a nation-wide
9 radio broadcast, declare that the new foreign
10 policy would be one enabling Japan to take the
11 initiative in building up a new world order as the
12 old order had already ended in Europe?

13 A I don't recall the contents of the radio
14 speech made by Prince KONOYE.

15 Q Did not the KONOYE Cabinet, shortly after
16 its inauguration and after agreement with the Army,
17 lay down, on 26 July 1940, the outline of Japan's
18 basic national policy aimed at the construction of
19 the new order of Greater East Asia, for the attain-
20 ment of which constructive and elastic measures will
21 be adopted in order to advance the national fortunes
22 of the Empire?

23 A I recall that this outline of the basic
24 policy -- of the basic national policy was not de-
25 cided on by the Army alone but was decided on at a

1 cabinet meeting at which all members of the cabinet
2 were present.

3 MR. ENGLISH: I direct the Court's atten-
4 tion to the fact that this question was based upon
5 exhibit 541, record 6,271.

6 Q It is true, General, isn't it, that the
7 draft of this basic national policy, exhibit 541,
8 was prepared by the Military Affairs Section of
9 the Military Affairs Bureau and given by you to War
10 Minister TOJO for him to take up with Premier
11 KONOYE, and that this draft was approved by the
12 cabinet?

13 A No, that is not so.

14 Q General, did you give these answers to the
15 following questions during an interrogation at
16 Sugamo Prison on 16 April 1946:

17 "Q In 1940, did you not formulate a new
18 order for the Japanese Empire, which was presented
19 by TOJO to the cabinet and approved?

20 "A At the time of the KONOYE Cabinet, when
21 Prince KONOYE called in TOJO to be his next War
22 Minister, the plan that TOJO took with him to show
23 to the Prime Minister was one that had been made up
24 in the Military Affairs Section. This is the
25 accepted policy and one which is always followed

1 when a new War Minister takes over.

2 "Q And that plan was formulated while you
3 were Chief of the Military Affairs Bureau?

4 "A Yes."?

5 A That interrogation -- that draft of which
6 you were speaking there is something entirely
7 different from the basic national policy which was
8 presented to this Tribunal as an exhibit. War
9 Minister General TOJO's draft concerned, first, the
10 establishment of a foreign policy with the solution
11 of the China Incident as its basic point and also
12 the establishment of the strengthening of the
13 internal structure of Japan for the sake of
14 establishing a high state of national defense.
15 Whenever a new War Minister is appointed, he should
16 know and be able to present the Army's point of
17 view, and he should have certain basic ideas of
18 the Army as a whole, and it is on that point that
19 General TOJO took his proposals, and I never said
20 during my interrogation that this was a policy
21 which every War Minister had taken to every new
22 cabinet. The basic national policy, which has been
23 presented to this Court as an exhibit, was based
24 upon the drafts which each new War Minister presented
25 to the cabinet on his assumption of his post and was

1 not drawn up by General TOJO alone.

2 THE MONITOR: Japanese court reporter.

3 (Whereupon, the Japanese court
4 reporter read from his notes.)

5 THE INTERPRETER: "The basic national
6 policy was formed on the drafts submitted by each
7 new Cabinet Minister and was not formulated by
8 General TOJO alone."

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1 Q But, General, the basic aim of the draft
2 prepared by the Military Section of the Military
3 Affairs Bureau was aimed at the creation of a new
4 order externally and internally, that is, in foreign
5 affairs, foreign relations, and internally --
6 nationally?

7 A It was directed to that also, and you will
8 see it included in the basic national policy.

9 Q It is true, General, isn't it, that the
10 cabinet decision, exhibit 541, deciding the outline
11 of Japan's basic national policy was discussed at the
12 Liaison Conference of 27 July 1940, at which you were
13 present, and after the meeting it was officially
14 announced that a complete agreement was reached be-
15 tween the Imperial Headquarters and the government
16 on the basic policies approved at the cabinet meet-
17 ing?

18 A I don't recall that.

19 Q The Yomiuri Shimbun is a newspaper of general
20 circulation in Japan with a circulation of approximate-
21 ly a million and a half, is that not true, General?
22

23 A I don't know the circulation figures, but I
24 do know that the Yomiuri is very widely read.

25 Q It is a Japanese-language newspaper, is it

1 not?

2 A Yes.

3 Q I refer again to the cabinet decision,
4 exhibit 541. To carry out the objectives of Sec-
5 tion 3 of the Outline of Japan's Basic National
6 Policy as decided by the cabinet on 26 July 1940,
7 and particularly dealing with the renovation of the
8 internal structure, you were one of six appointed
9 as the permanent secretariat, which, as directors of
10 the new Structure Preparatory Committee, was to be
11 the driving force in drawing up the plans for the
12 organizational draft of a new Structure Preparatory
13 Committee; that is true, is it not?

14 ACTING PRESIDENT: Can you understand that
15 question, Witness?

16 THE WITNESS: Not too well, your Honor.

17 ACTING PRESIDENT: Can't you simplify that
18 somewhat, Mr. English?

19 MR. ENGLISH: I will, your Honor.

20 ACTING PRESIDENT: It is not only involved,
21 but it takes a lot of extra time for the translators.

22 BY MR. ENGLISH:

23 Q General, you were appointed as one of six
24 members of the permanent secretariat of the new Struc-
25 ture Preparatory Committee, is that not true?

1 A I forget whether there were six or how many
2 there were, but I was appointed one of the members of
3 the secretariat.

4 Q The new Structure Preparatory Committee was
5 organized to carry out the basic aims of the cabinet
6 decision of 26 July 1940, isn't that true?

7 A One of its objectives was to carry out the
8 basic aims of the Outline of Basic National Policy,
9 but it did have another purpose. Prince KONOYE had
10 from before held the idea of strengthening the inter-
11 nal structure of Japan, and this was the principal
12 purpose of this Preparatory Committee.

13 ACTING PRESIDENT: We will recess for fif-
14 teen minutes.

15 (Whereupon, at 1045, a recess
16 was taken until 1100, after which the
17 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. English.

4 BY MR. ENGLISH (Continued):

5 Q General, prior to the Cabinet decision we've
6 been talking about, exhibit 541, on 11 July, 1940 you
7 had a conversation, did you not, with Chief Secretary
8 ISHIHATA at the Premier's official residence during
9 which you exchanged views with him favorable to the
10 creation of this new political structure?

11 A Yes. I spoke of my agreement and approval
12 of the direction towards which Prime Minister KONOYE's
13 intentions were directed.

14 Q Referring again to the same Cabinet deci-
15 sion, isn't it a fact that the Tri-Partite Pact,
16 consummated on 27 September, 1940, in order to insure
17 the establishment of a new order in Europe by Germany
18 and Italy and a new order in East Asia by Japan,
19 that those two events happened pursuant to the Cab-
20 inet decision outlining the basic national policy?

21 A That is not so. There is nothing referring
22 to a new order in Europe in the outline of the basic
23 national policy. What I recall is this: Prime
24 Minister MATSUOKA was very proud of the manner in
25 which the preamble of the Tri-Partite Alliance Pact

1 was drawn up inasmuch as it expressed his views with
2 regard to the new order, that is to say, to enable
3 each and every nation and people to have their proper
4 place in the world. He was proud of the fact that
5 for the first time a purely Japanese ideal was
6 incorporated into an international treaty.

7 Q You were present, were you not, at the
8 first meeting of the Permanent Secretariat held on
9 26 August, 1940 at the Prime Minister's official
10 residence to put the final touches on KONOYE's pro-
11 clamation officially announcing the establishment of
12 the new political structure?

13 A The question was not quite clear to me.
14 But Prime Minister KONOYE was not present at the
15 meeting of the Secretariat. He was present at the
16 first meeting of a committee of forty persons which
17 he had nominated for the purpose.

18 Q Was that committee of forty members the
19 same as the Permanent Secretariat?

20 A The Secretariat was constituted by secretar-
21 ies of a lower level, whereas the committee of forty
22 or thereabouts was composed of representatives of
23 private civilian circles and the government of the
24 ministerial class or level.

25 Q Were you a member of this committee of forty?

1 A No, I was not.

2 Q But you were a member of the Permanent
3 Secretariat, were you not?

4 A Yes.

5 Q What was the purpose of the Secretariat?
6 What function did it perform?

7 A Before assuming the post of Prime Minister,
8 Prince KONOYE was the organizer and leader of an
9 organization called the Showa Kenkyukai or Showa
10 Research Association. This organ, namely the
11 Showa Research Association, prepared a sort of an
12 outline plan of a new national organization or
13 structure, and the Secretariat undertook the study
14 of the plan as prepared by this association.

15 Q Wasn't it the function of the Permanent
16 Secretariat to prepare the way for the meeting of
17 the committee of forty?

18 A The function of the members of the Secretar-
19 iat was to study draft plans. It was not its duty
20 nor function to nominate or to assemble members of
21 the committee.

22 Q To study draft plans of what, General?

23 A Well, such matters -- such basic plans as
24 may relate to reorganization of the national structure,
25 but it is difficult for me to speak of the matter

1 A No, I, was not.

2 Q But you were a member of the Permanent
3 Secretariat, were you not?

4 A Yes.

5 Q What was the purpose of the Secretariat?
6 What function did it perform?

7 A Before assuming the post of Prime Minister,
8 Prince KONOYE was the organizer and leader of an
9 organization called the Showa Kenkyukai or Showa
10 Research Association. This organ, namely the
11 Showa Research Association, prepared a sort of an
12 outline plan of a new national organization or
13 structure, and the Secretariat undertook the study
14 of the plan as prepared by this association.

15 Q Wasn't it the function of the Permanent
16 Secretariat to prepare the way for the meeting of
17 the committee of forty?

18 A The function of the members of the Secretar-
19 iat was to study draft plans. It was not its duty
20 nor function to nominate or to assemble members of
21 the committee.
22

23 Q To study draft plans of what, General?

24 A Well, such matters -- such basic plans as
25 may relate to reorganization of the national structure,
but it is difficult for me to speak of the matter

1 in a word.

2 Q Did it make plans or draft plans for the
3 organization of this new structure political committee?

4 A In the final analysis the secretaries could
5 not do that and, therefore, various matters, questions,
6 were submitted by Prime Minister KONOYE to the com-
7 mittee, that is, the standing committee, and the
8 opinions which were expressed at the committee meeting
9 were used as bases for drawing up other plans.

10 Q Did you attend the meeting of the Permanent
11 Secretariat on 26 August 1940 at the residence of the
12 Prime Minister?

13 A As I think I have said before, I do not
14 know whether a meeting of the Secretariat was held
15 on August 26. If Prime Minister KONOYE is said to have
16 attended a meeting, it was not a meeting of the Secre-
17 tariat but a meeting of the committee.

18 Q Do you recall a meeting on or about 26
19 August 1940 attended by TONITA, OBATA, ABE, GOTO,
20 INADA, MORIYAMA, OKUNURA, Lieutenant Colonel MAKI
21 and Captain or Commander TAKAGI?

22 A I do not recall that.

23 Q Do you recall this meeting was called for the
24 purpose of putting the final touches on KONOYE's
25 proclamation officially announcing the establishment

1 of the new political structure committee?

2 A I have a recollection of having discussed
3 a draft of the KONOYE declaration which was prepared
4 somewhere.

5 Q It is a fact, General, is it not, that in
6 the original draft of this proclamation Premier
7 KONOYE wrote strongly that the new order meant
8 neither Nazism nor fascism, but when it was sent
9 to you you deleted that statement and returned the
10 draft to the Cabinet?

11 A The draft which Prime Minister KONOYE first
12 sent to the Ministry of War through the War Minister
13 was a very long and loose statement. At that time
14 I did not know that this draft had been prepared at
15 the direction of Prince KONOYE and, thinking it to be
16 too long, I expressed my opinions with regard to
17 cutting it into about half.

18 THE INTERPRETER: Slight correction: At that
19 time as I did not know that this draft had been pre-
20 pared by KONOYE, Prince KONOYE, I expressed opinions
21 to have the statement cut to about half the length.

22 A (Continuing) It may be that the KONOYE
23 statement with regard to the fact that the new order
24 did not mean fascism or Nazism was in the omitted
25 portion. However, later on I abandoned my views after

1 learning that the draft was Prime Minister KONOYE's
2 draft.

3 Q General, did you or did you not delete from
4 the KONOYE draft these words, "that the new order
5 meant neither Nazism nor fascism"?

6 A I do not remember.

7 Q It is true, isn't it, General, that a
8 Captain TAKAGI of the Naval Affairs Bureau was one
9 of the assistant secretaries of the Preparatory
10 Committee and that he was present at the meeting of
11 the committee on 26 August 1940 which discussed the
12 draft of KONOYE's proclamation?

13 A There was no captain of the Navy by the
14 name of TAKAGI among the secretaries.

15 Q Was there a Captain TAKAGI of the Bureau
16 of Naval Affairs, Navy Ministry, one of the assistant
17 secretaries?

18 A There may have been a Captain TAKAGI as an
19 assistant in the Naval Affairs Bureau of the Navy
20 Ministry but I don't know.
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Q You do not recall, then, meeting with him on 26 August 1940 to discuss KONOYE's draft proclamation?

A As I have said before, I do recall having discussed a draft of the KONOYE proclamation. However, I do not recall whether there was such a person representing the Navy.

Q Do you recall telling Captain T.KAGI late in August, 1940, that the Army was disappointed with KONOYE and his proclamation and the new political structure?

A I do not. Nor was the Navy disappointed -- nor was there anything like a disappointment in the Army.

Q You also told Captain T.KAGI that the Army was exerting all its efforts to induce the dissolution of all political parties to form one pro-Army party but that its plan was frustrated when KONOYE's proclamation was published.

A That is a very great misapprehension. The facts are quite different.

Q You further told Captain T.KAGI during this conversation late in August 1940 that the Army had planned to use Prince KONOYE as a robot. That is true, is it not, General?

A Absolutely not.

Q It is a fact, isn't it, that on 15 August 1940

1 the Menseito, the largest political party in Japan, dis-
2 banded and that marked the end of the party system in
3 Japan?

4 A I do not remember the date, but the Menseito
5 also disbanded. As I have said before, perhaps today --
6 perhaps last Friday, the Army was very much disposed to,
7 approved of and supported KONOYE's plans for the establish-
8 ment of a new party for the purpose of carrying on
9 effective politics in Japan. The political parties
10 were disbanded but Prime Minister KONOYE abandoned the
11 idea of creating a new political party. In connection
12 therewith I might have said something but I do not
13 remember.

14 Q It is also a fact, isn't it, that after the
15 signing of the Tripartite Pact the new political
16 structure became officially the Imperial Rule Assistance
17 Association?

18 A Yes.

19 MR. ENGLISH: In this connection, in con-
20 nection with the last question, I refer the Tribunal
21 to the following pages of the record: 1117, 1639 to
22 1634 -- the pages following 1639, page 6706 to 6714.

23 Q It is a fact, General, isn't it, that you stated
24 in the early part of February 1941 as a councillor of
25 the Imperial Rule Assistance Association that the "Army

1 and the Navy will fully cooperate with the association
2 in the future just as they have cooperated to the fullest
3 extent in the development of the association in the
4 past"?

5 A Yes. At such meetings it was customary for
6 the Army and Navy to rotate, that is, representatives
7 of the Army and Navy rotated in speaking before the
8 meeting of the I.R.A.A. and on this particular occasion
9 it was my turn and I represented both the Army and the
10 Navy.

11 Q Regarding your explanation of exhibit 2243,
12 that is the speech in the Committee of Accounts of the
13 Diet on March 20, 1940 and referred to in paragraph 13
14 of your affidavit, isn't it true that in responsible
15 circles in Japan the speech was interpreted as a
16 ringing advocacy for the dissolution of political
17 parties?

18 MR. COLI: Sir, I object to that question as
19 being entirely immaterial.

20 ACTING PRESIDENT: Objection overruled.

21 A No, that isn't so. Well, the press treated
22 my statements in the manner which the prosecutor has
23 suggested and people who did not know the real situ-
24 ation seemed to have been very much surprised, but
25 those who have referred to the stenographic transcript

1 of proceedings of the Diet well understood the contents
2 of my statement.

3 Q General, three days after the speech did not
4 Foreign Minister ARITA appear before the same committee
5 and was he not asked by Member INADA if he, the Foreign
6 Minister, agreed with the opinion of the Chief of the
7 Military Affairs Bureau MUTO who said that political
8 parties must be dissolved and did not ARITA evade the
9 question?

10 A I do not think the Member of the House of
11 Representatives INADA was at the meeting of the
12 Committee of Accounts when I spoke before it. Neither
13 was Foreign Minister ARITA. And so neither of them,
14 that is ARITA or INADA, knew what I spoke about. What
15 I said in that connection is exactly as I have testified
16 in my affidavit. There is nothing else to add to that
17 and it has no other meaning.

18 Q What I asked you, General, was this, whether
19 or not ARITA evaded answering that question.

20 A I do not know.

21 Q In this same speech you cited General TERUCHI's
22 views on totalitarianism. Is he not the same General
23 TERUCHI who was sent in 1939 to Berlin to attend as
24 the Japanese official representative to the Nazi Party
25 conference?

1 A. Yes, but War Minister TERAMUCHI did not simply
2 talk about totalitarianism itself.

3 Q. The interpellations which governed that Diet
4 speech were directed not to you but to War Minister
5 H.A.T.A., were they not?

6 A. It appears that the member of the House of
7 Representatives was desirous of calling War Minister
8 H.A.T.A. to the committee meeting for the purpose of inter-
9 pellation.

10 Q. But you, General, and not H.A.T.A. replied to the
11 interpellations. That is true, isn't it?

12 A. Yes.

13 MR. ENGLISH: If it please the Tribunal,
14 that concludes the cross-examination of the accused
15 MUTO.
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1 MR. COLE: May it please the Tribunal, we
2 have a few questions on redirect.

3 ACTING PRESIDENT: Mr. Cole.

4 REDIRECT EXAMINATION

5 BY MR. COLE:

6 Q General MUTO, last Friday some emphasis was
7 put upon the fact that you, even though a Major General,
8 and later Lieutenant General, served at the Imperial
9 Conference only to do secretarial detail work. Will
10 you describe very briefly the arrangement of tables
11 and chairs, and your position in the Imperial Confer-
12 ence room?

13 A Imperial Conferences were held in a large
14 room in the Imperial Palace. The dais on which the
15 Emperor sat was a little above the level of the floor
16 of the conference room. Before this dais on which the
17 Emperor sat was a long rectangle table, and attendants
18 at the Imperial Conference sat facing each other along
19 the side of the table. In a corner of this large room
20 there is another small table. Here the secretaries
21 sat.
22

23 It was customary at Imperial Conferences for
24 the Prime Minister to serve as the presiding officer.
25 Those speaking at the conference stood up in front of
his chair and spoke, after bowing to His Majesty.

1 During the conference no one enters or leaves the
2 conference room. Conferences were held in a very
3 solemn manner.

4 Q Now, General MUTO, more briefly will you
5 explain the arrangement and your position in Liaison
6 Conferences?

7 A Liaison Conferences were held in a smaller
8 conference room, and around the conference room were
9 armchairs. Somewhat in the center along the farther
10 end of the room sat the Prime Minister, and a circle
11 was formed around him. And the three secretaries sat
12 together near the entrance to the conference room.

13 Liaison Conferences were held between the
14 representatives of the Government and of the High Com-
15 mand for the purpose of bringing about a meeting of
16 minds between the two on various issues, and, there-
17 fore, there was no presiding officer, and every member
18 spoke freely. And, therefore, at times there may be
19 occasions when two men would start talking at the same
20 time, or for one member to be whispering to another
21 while another one was speaking. Secretaries were con-
22 stantly leaving and entering the room on such business
23 as making telephone calls, to call in explainers, or
24 to bring in documents.
25

Q In referring to the secretaries in your last

1 During the conference no one enters or leaves the
2 conference room. Conferences were held in a very
3 solemn manner.

4 Q Now, General MUTO, more briefly will you
5 explain the arrangement and your position in Liaison
6 Conferences?

7 A Liaison Conferences were held in a smaller
8 conference room, and around the conference room were
9 armchairs. Somewhat in the center along the farther
10 end of the room sat the Prime Minister, and a circle
11 was formed around him. And the three secretaries sat
12 together near the entrance to the conference room.

13 Liaison Conferences were held between the
14 representatives of the Government and of the High Com-
15 mand for the purpose of bringing about a meeting of
16 minds between the two on various issues, and, there-
17 fore, there was no presiding officer, and every member
18 spoke freely. And, therefore, at times there may be
19 occasions when two men would start talking at the same
20 time, or for one member to be whispering to another
21 while another one was speaking. Secretaries were con-
22 stantly leaving and entering the room on such business
23 as making telephone calls, to call in explainers, or
24 to bring in documents.
25

Q In referring to the secretaries in your last

1 answer you included yourself, General MUTO?

2 A Yes.

3 Q Exhibit 3456 which was admitted last Friday
4 refers to a meeting at the Foreign Minister's official
5 residence on 6 September 1941. Will you state briefly
6 how you happened to attend that meeting?

7 A As I have written in my affidavit, it was
8 one of my duties to hold conferences with the Director
9 of the American Bureau of the Foreign Office at the
10 orders of the War Minister. Slight correction: As
11 I have stated in my affidavit, I was ordered by the
12 War Minister to confer with the Director of the American
13 Bureau of the Foreign Ministry. When the Foreign Of-
14 fice makes a study of certain matters, they would call
15 me by telephone to obtain the army's views on various
16 questions, and it is in response to these telephone
17 invitations that I attend them. The document which
18 was shown to me the other day was a document drawn
19 up by the Foreign Office.
20

21 Q Did you have anything to do with drawing up
22 that document?

23 A Well, I was one of the parties consulted in
24 the course of the discussions at the conference, and
25 the document was drawn up as a result of these consul-
tations.

MUTO

REDIRECT

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ACTING PRESIDENT: We will adjourn until 1:30.
(Whereupon, at 1200, a recess
was taken.)

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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

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4 ~~MARSHAL OF THE COURT:~~ The International
5 Military Tribunal for the Far East is now resumed.
6 A K I R A M U T O, an accused, resumed the stand
7 and testified through Japanese interpreters as
8 follows:

REDIRECT EXAMINATION

9
10 BY MR. COLE:

11 Q General MUTO, in your last answer on cross-
12 examination you answered that you attended a com-
13 mittee meeting of the Diet in place of General HATA.
14 Why did you attend in his place?

15 As I have stated in my affidavit, General
16 HATA happened to be in attendance at a more important
17 committee meeting of another committee. And when I
18 spoke of this fact to this particular Committee of
19 Accounts and asked whether it would be satisfactory to
20 the Committee of Accounts if the Director of the Mili-
21 tary Affairs Bureau attended in the place of the War
22 Minister the committee said that that would be satis-
23 factory, and therefore I attended.

24 Q During your tenure as Chief of the Military
25 Affairs Bureau were you aware at any time of insistence

1 on the part of the army that there be a single politi-
2 cal party?

3 A No, there was nothing of the kind. The army
4 approved of Prince KONOYE's new party movement, but
5 the army did not consider anything such as a single
6 party system. Rather, on the contrary, the army be-
7 lieved that a single party system would be tantamount
8 to no political parties whatsoever, and that anything
9 in the nature of a single party would eventually col-
10 lapse by internal corruption.

11 Q Do you know whether the army ever insisted
12 upon a complete disbanding of all political parties?

13 A No, it did not. The movement for the dissolu-
14 tion of political parties took place in pursuance of a
15 desire within the political parties themselves for the
16 creation of a new political party, and the truth of
17 the situation with regard to this matter was as testi-
18 fied to by a witness who appeared in this Tribunal
19 namely, Mr. OKADA, one of the leaders of the former
20 Seiyukai.

21 THE MONITOR: Slight addition: Prince KONOYE's
22 new political party movement.

23 MR. COLE: That concludes our redirect exami-
24 nation, sir.

25 ACTING PRESIDENT: I have a question by a

Member of the Tribunal.

1
2 Is the General YAMASHITA you mentioned in
3 your affidavit the same YAMASHITA who was prosecuted
4 and was sentenced to capital punishment in the Philip-
5 pines?

6 THE WITNESS: Yes.

7 ACTING PRESIDENT: The prisoner may resume
8 his place in the dock.

9 (Whereupon, the witness was
10 excused.)

11 MR. COLE: At this point, may it please the
12 Tribunal, I should like to make a brief statement on
13 a further development regarding Colonel ISHII.

14 ACTING PRESIDENT: All right.

15 MR. COLE: Since this matter came up last
16 week we have been advised that Colonel ISHII has post-
17 poned a necessary operation for the collapse of a lung
18 until such time as the cross-examination can be had.

19 That brings an even more urgent aspect to his
20 particular case. On behalf of the accused MUTO we
21 would like to withhold the reading of Colonel ISHII's
22 main affidavit until such time as we can obtain his
23 additional testimony and the cross-examination or
24 interrogatories of the prosecution. I am prepared
25 to read his affidavit at this point, but we would

1 prefer to have all his testimony put in at one time.

2 ACTING PRESIDENT: I have been assured by
3 Mr. Justice Northcroft, who has been appointed
4 Commissioner to take ISHII's testimony, that the
5 commission was set as soon as the arrangements can
6 be made by the Secretariat.

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1 MR. TAVENNER: If the Tribunal please.

2 ACTING PRESIDENT: Mr. Tavenner.

3 MR. TAVENNER: If I now understand the situation
4 correctly, counsel proposes to tender an additional
5 affidavit. With that changed situation, I feel that I
6 should withdraw the suggestions that I made this morning,
7 and that the prosecution should not commit itself in
8 any manner until that affidavit is presented for us to
9 see.

10 If an additional affidavit is presented, the
11 rules of the Tribunal should be complied with and we
12 should have that information before going all that dis-
13 tance if testimony is taken on commission. So I now
14 suggest that the affidavit, if one is to be presented,
15 be prepared and served in the usual way before we make
16 any objections or raise any further question regarding
17 the matter.

18 ACTING PRESENT: As I understood the situation
19 this morning, Colonel ISHII was not in condition to
20 be subjected to cross-examination. If he is to be
21 examined by commission, why can't they go ahead and
22 examine him and bring in such other evidence as they
23 may see fit because of the information brought out by
24 the testimony of one of the witnesses here?
25

MR. TAVENNER: There would be no objection,

1 if the Tribunal please, to that procedure if it were con-
2 fined to cross-examination on the affidavit presented.
3 But if now it is intended, as indicated, to begin over
4 again by the filing of a new affidavit, presumably
5 concerning matters not related to the original affida-
6 vit, we take the position that such affidavit should be
7 served under the rules of the Tribunal before we are
8 compelled to cross-examine or to make objections to the
9 introduction of it. And, of course, there is always
10 the possibility that after an affidavit is presented,
11 a decision may be reached not to cross-examine.

12 But these are all matters, if the Tribunal
13 please, with which Major Lopez was dealing, and as to
14 which I have been unable to discuss the matter with him.

15 In any event, since we have now been told that
16 a new affidavit is to be prepared, we certainly think
17 it is within the rule of the Tribunal that that affida-
18 vit be served on us just as any other affidavit. I
19 can see the possibility, though I know nothing about it
20 as to this particular witness, of going this long dis-
21 tance at great inconvenience to the Tribunal as well as
22 every other person, and find some matter being brought
23 up as to which there is a document in our possession
24 here which would only necessitate another trip. So
25 all that I am asking now is that the affidavit be served

1 on us in the usual way, after which some decision will
2 be reached.

3 ACTING PRESIDENT: The prosecution have been
4 assured that they will have every opportunity to meet
5 any new evidence that is put up, introduced into court.
6 The only question now is with this particular witness,
7 as to his illness, and so on, which is the best way
8 to do it. The normal way to do would be for the defense
9 to present this matter by affidavit as you suggest,
10 Mr. Prosecutor. This seems to be developing now into a
11 combination of further examination as well as cross-
12 examination.

13 MR. COLE: Sir, my main concern throughout
14 has been the matter of Colonel ISHII's health. The
15 last word I have had is that he is in good enough con-
16 dition now to stand cross-examination. By the same
17 token, he is strong enough to stand the operation which
18 he needs.

19 The additional affidavit was the suggestion
20 of the Acting President this morning, whereas we only
21 want a few additional questions on direct examination.
22 If Colonel ISHII were present in court as a witness,
23 under the previous practice we would be allowed a few
24 additional questions of direct examination, and that
25 is all we want.

1 ACTING PRESIDENT: On the contrary, if the
2 witness were on the stand, we could call him back.
3 Now this requires another commission, possibly.

4 MR. COLE: My point is this, sir: I feel
5 that the commission should be arranged and should be
6 sent to the hospital as soon as possible, and that we
7 be allowed a few additional questions of direct exami-
8 nation, which we would be allowed in court, without
9 further notice to the prosecution.

10 ACTING PRESIDENT: The difference is, Mr. Cole,
11 that if the witness were in court and the few additional
12 questions brought out something new, the prosecution
13 would have their documents here where they could go
14 and properly cross-examine him. On the other hand, if
15 the commission and the hearing is held up at Karuizawa,
16 or wherever it is, up in that neighborhood, and the
17 prosecution does not have those documents, it would
18 require a second session of the commission.

19 Can't you get together with the prosecution
20 and tell them what your questions are going to be, and
21 then they will be prepared and perhaps they can go
22 right through, there, with one hearing of the commission
23 that is, if the prosecution still desires to cross-
24 examine the witness.

25 MR. TAVENNER: If it please the Tribunal,

1 the answers to those questions is far more important than
2 the questions. And it would seem to me to be such a
3 simple matter to prepare the affidavit just as the first
4 one was, serve it under the rules of the Tribunal, and
5 then all questions relating to it can be easily
6 determined.

7 MR. COLE: I repeat that the only objection,
8 sir, is the matter of time. This operation is being
9 postponed until we can be finished with Colonel ISHII,
10 and obtaining the affidavit would take much more time.

11 ACTING PRESIDENT: The majority seem to feel
12 that there should be an affidavit first, and also that
13 the prosecution may know what new matter they have to
14 meet.

15 MR. COLE: We will proceed accordingly, sir.
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1 I offer in evidence defense document
2 2679-A, a certificate which discloses the
3 unavailability of certain documents referred to in
4 General MUTO's testimony.

5 ACTING PRESIDENT: Mr. English.

6 MR. ENGLISH: We object to the document,
7 page 1, the opening paragraph; specifically to the
8 words "...were burnt at the end of the War and..."
9 We do not think the man who made the certificate is
10 competent to state that the documents were burnt.

11 ACTING PRESIDENT: If there is any question
12 as to the truthfulness of this certificate, you can
13 ask to have him called for cross-examination.

14 MR. ENGLISH: Mr. Cole is willing to delete
15 the words.

16 Mr. Cole has agreed to delete the words and
17 because of that we do not object to the rest of the
18 affidavit.

19 ACTING PRESIDENT: The document will be
20 admitted.

21 CLERK OF THE COURT: Defense document
22 2679-A will receive exhibit No. 3461.

23 (Whereupon, the document above re-
24 ferred to was marked defense exhibit No. 3461
25 and received in evidence.)

1 MR. COLE: May it please the Tribunal, I
2 offer now in evidence defense document 1251. This
3 document, I believe, has been tendered before and
4 rejected. We do not intend to read any of it, but
5 merely to refer to Article 13, page 3, which comments
6 on the duties of an Army Vice-Chief of Staff.

7 ACTING PRESIDENT: The document will be
8 admitted.

9 CLERK OF THE COURT: Defense document 1251
10 will receive exhibit No. 3462.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit No. 3462
13 and received in evidence.)

14 MR. COLE: We now offer in evidence defense
15 document 2833, an excerpt of the Parliament Member
16 Election Law, for reference only.

17 ACTING PRESIDENT: The document will be
18 admitted.

19 CLERK OF THE COURT: Defense document 2833
20 will receive exhibit No. 3463.

21 (Whereupon, the document above re-
22 ferred to was marked defense exhibit No. 3463
23 and received in evidence.)

24 MR. COLE: Similarly with defense document
25 2835, an excerpt from the Army Criminal Law.

1 ACTING PRESIDENT: The document is admitted.

2 CLERK OF THE COURT: Defense document 2835
3 will receive exhibit No. 3464.

4 (Whereupon, the document above re-
5 ferred to was marked defense exhibit No. 3464
6 and received in evidence.)

7 MR. COLE: Likewise with defense document
8 2834, an excerpt from The Imperial Precepts To The
9 Soldiers and Sailors.

10 ACTING PRESIDENT: The document is admitted.

11 CLERK OF THE COURT: Defense document 2834
12 will receive exhibit No. 3465.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 3465
15 and received in evidence.)

16 MR. COLE: We offer in evidence defense
17 document 2860, a certificate of non-availability,
18 which was referred to at the close of my opening
19 statement.

20 ACTING PRESIDENT: The document is admitted.

21 CLERK OF THE COURT: Defense document 2860
22 will receive exhibit No. 3466.

23 (Whereupon, the document above re-
24 ferred to was marked defense exhibit No. 3466
25 and received in evidence.)

1 ACTING PRESIDENT: The document is admitted.

2 CLERK OF THE COURT: Defense document 2835
3 will receive exhibit No. 3464.

4 (Whereupon, the document above re-
5 ferred to was marked defense exhibit No. 3464
6 and received in evidence.)

7 MR. COLE: Likewise with defense document
8 2834, an excerpt from The Imperial Precepts To The
9 Soldiers and Sailors.

10 ACTING PRESIDENT: The document is admitted.

11 CLERK OF THE COURT: Defense document 2834
12 will receive exhibit No. 3465.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 3465
15 and received in evidence.)

16 MR. COLE: We offer in evidence defense
17 document 2860, a certificate of non-availability,
18 which was referred to at the close of my opening
19 statement.
20

21 ACTING PRESIDENT: The document is admitted.

22 CLERK OF THE COURT: Defense document 2860
23 will receive exhibit No. 3466.

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No. 3466
and received in evidence.)

1 MR. COLE: I respectfully refer the
2 Tribunal's attention to exhibit No. 2578, which is
3 a further certificate regarding non-availability.

4 Sir, we will discontinue our presentation
5 at this point. We cannot close because of the
6 outstanding matter regarding Colonel ISHII.

7 ACTING PRESIDENT: Mr. Roberts.

8 MR. ROBERTS: May it please the Tribunal, I
9 read the opening statement concerning the accused
10 OKA, Takazumi, defense document No. 2830.

11 ACTING PRESIDENT: You may proceed.

12 MR. ROBERTS: After careful consideration
13 of the evidence adduced concerning the defendant OKA,
14 it is obvious that he has been indicted --

15 ACTING PRESIDENT: Mr. Roberts, may I
16 interrupt?

17 I have just been informed that the SHIDEHARA
18 commission report is ready. It might be a good idea
19 to have that interpolated between these two defendants.

20 MR. ROBERTS: I have no objection.

21 I think Mr. Brooks, however, is in charge of
22 the commission. Perhaps we ought to send for Mr. Brooks.
23 I believe there are other counsel who also desire to
24 be present and whether or not we can proceed without
25 them I am not in a position to say.

1 ACTING PRESIDENT: Under those circumstances,
2 we had better not delay. The only question now is
3 when we will take it up.

4 How long do you think you will take?

5 MR. ROBERTS: I think there will be nothing
6 lost by delaying until we finish our case, which will
7 not take long.

8 ACTING PRESIDENT: All right, we will take up
9 the matter of the commission of Baron SHIDEHARA at the
10 conclusion of your case.

11 MR. ROBERTS: (Continuing)

12 After careful consideration of the evidence
13 adduced concerning the defendant OKA, it is obvious
14 that he has been indicted and is now on trial not
15 for any acts which he committed, but rather because
16 he occupied a certain position which the prosecution
17 has erroneously contended, presupposes a guilty
18 participation in an alleged conspiracy. If this
19 theory were correct, then thousands of career men in
20 similar Government positions should likewise be held
21 responsible for the alleged acts of others and they,
22 too, should be in the prisoners's box. It will be
23 shown that this Indictment by general sweeping state-
24 ments and trial by inference is not legally sufficient
25 to prove any participation in a conspiracy to wage

1 aggressive war or any of the other crimes charged
2 against this defendant.

3 Although the defendant OKA is included
4 in the blanket Indictment for conspiracy to wage
5 aggressive war in the first seventeen counts, he is
6 not included in the specific counts numbered 18 and
7 19 relating to initiating a war of aggression against
8 China on 18 September 1931, and 7th July 1937. He
9 is likewise not included in the specific counts
10 numbers 23, 25 and 26, relating to initiating a war
11 of aggression against France, the U.S.S.R., the
12 Mongolian Peoples' Republic, and in counts numbered
13 33, 35 and 36 relating to waging a war of aggression
14 against France, the Mongolian Peoples' Republic and
15 the U.S.S.R. In Group Two, relating to Murder, the
16 defendant OKA is not included in the specific counts
17 numbered 45, 46, 47, 48, 49, 50, 51 and 52 relating
18 to alleged murder in China and the U.S.S.R.

19 It is obvious that the participation of the
20 defendant OKA in the Manchurian Affair and the China
21 Incident was based upon presumption because of a
22 committee membership which he held and because he was
23 decorated for "his services" in both Incidents (Record
24 Page 16, 968.)

25 It will be shown that OKA did not participate

1 aggressive war or any of the other crimes charged
2 against this defendant.

3 Although the defendant OKA is included
4 in the blanket Indictment for conspiracy to wage
5 aggressive war in the first seventeen counts, he is
6 not included in the specific counts numbered 18 and
7 19 relating to initiating a war of aggression against
8 China on 18 September 1931, and 7th July 1937. He
9 is likewise not included in the specific counts
10 numbers 23, 25 and 26, relating to initiating a war
11 of aggression against France, the U.S.S.R., the
12 Mongolian Peoples' Republic, and in counts numbered
13 33, 35 and 36 relating to waging a war of aggression
14 against France, the Mongolian Peoples' Republic and
15 the U.S.S.R. In Group Two, relating to Murder, the
16 defendant OKA is not included in the specific counts
17 numbered 45, 46, 47, 48, 49, 50, 51 and 52 relating
18 to alleged murder in China and the U.S.S.R.

19 It is obvious that the participation of the
20 defendant OKA in the Manchurian Affair and the China
21 Incident was based upon presumption because of a
22 committee membership which he held and because he was
23 decorated for "his services" in both Incidents (Record
24 Page 16, 968.)

25 It will be shown that OKA did not participate

1 in either Incident, directly or indirectly, and
2 the Awards made to him were part of general Awards
3 to many thousands of navy men. The Manchurian
4 Affairs Committee appointment (being from January
5 1938 to November 1939) was an automatic perfunctory
6 appointment coexistent with the office he occupied,
7 wherein no action was taken by the defendant.

8 It will be shown that in October 1931, OKA
9 was a member of the staff in the Research Section,
10 Navy Ministry, and from October 1932 to April 1934,
11 he was a member of the suite of the Japanese Naval
12 Delegation to the League of Nations Standing Military
13 Commission and also as a member of the suite of the
14 Japanese Delegation to the general disarmament
15 conference in Geneva he was stationed in Paris and
16 Geneva. Upon his return to Japan he re-entered the
17 Navy Ministry and served in the Temporary Research
18 Section. That in December 1937, he was Captain of
19 the battleship "Jingei" and served on coastal patrol
20 along the Japanese coast and that from December 1,
21 1937 up to January 14, 1938, he served in the Naval
22 General Staff and concurrently in the Navy Ministry.
23 Thus, it will be evident that he could not be involved
24 in the Manchurian Incident, the signing of the Anti-
25 Comintern Pact and the China Incident which occurred
during the foregoing dates.

1 The prosecution has placed great emphasis
2 upon the fact that OKA was the Director of the Naval
3 Affairs Bureau and alleges that the importance of
4 his position is shown by the fact that he attended
5 a number of liaison conferences, Imperial Confer-
6 ences and Investigating Committee Meetings of the
7 Privy Council. This is another erroneous presump-
8 tion. The evidence will show that all of the fore-
9 going meetings were attended by OKA in the capacity
10 of a secretary or explainer. Although this is self-
11 evident from the exhibits introduced by the prose-
12 cution, we shall, in addition to pointing out such
13 disclosures in said exhibits, also present the
14 testimony of a former Navy Minister to incontrovert-
15 ibly prove that OKA had no voice or vote at said
16 meetings and was in no position to participate in
17 the policies formulated therein.

18 We shall further prove that the afore-
19 mentioned conferences and meetings were always
20 attended by two categories of persons. One category
21 was the members who usually occupied some cabinet
22 or similarly high position and the other was the
23 secretaries or explainers who were usually bureau
24 heads attending for the purpose of assisting or
25 presenting material to assist their superiors. We

1 shall further prove that OKA only attended as a
2 subordinate, never without his superior being present
3 as a member, and always acted in a subordinate manner,
4 without power to participate in the decisions or even
5 engage in discussions except when asked. The prose-
6 cution admitted OKA's inability to vote at these
7 meetings, record page 16,972, and proceeded to say
8 it was of little importance because the proceedings
9 were always unanimous. It is not stated how the
10 secretaries who did not vote showed unanimous
11 approval. The prosecution then stated further that
12 "the important point is that they fix him with full
13 knowledge of the policy to be pursued which, we
14 submit, his position gave him great power of shap-
15 ing, and he retained that position." This is a
16 further presumption based on no act or acts of the
17 defendant. The evidence will show that OKA occupied
18 his post in a manner similar to other naval officers
19 and that he was unable to resign of his own accord,
20 even should he so desire.
21

22 The evidence will show that on October 15,
23 1940, OKA became Director of the Naval Affairs
24 Bureau, Navy Ministry; that the Director of the
25 Naval Affairs Bureau in the Navy Ministry, like other
Bureau Directors, received his commands and orders

1 from the Navy Minister, and it was his duty to carry
2 out the matters decided by the Navy Minister under
3 the supervision of the Vice Navy Minister, and he
4 was simply one of the aides of the Navy Minister.

5 The proof to be adduced will also show that
6 OKA continued as Director of the Naval Affairs Bureau
7 after the formation of the TOJO Cabinet, even though
8 there was a reshuffle in the Prime Minister or the
9 Navy Minister because the custom prevailed in the
10 Navy that such a shift should not affect the per-
11 sonnel ranking below that of the Vice Navy Minister.
12 Thus OKA remained in his post, not of his own free
13 will, but pursuant to the order from his superior
14 officer to remain; nor did OKA personally solicit
15 the entry of Admiral YONAI in the TOJO Cabinet in
16 order to strengthen it during the closing days of
17 the TOJO Cabinet, but that such a solicitation was
18 made upon the order of Admiral Naokuni NOMURA, the
19 then Navy Minister.
20

21 We shall prove to the satisfaction of this
22 Tribunal that OKA at all times acted in accordance
23 with the policies formulated by his superiors and
24 insisted on his subordinates acting in a similar
25 manner. It will be shown through competent wit-
nesses that OKA expended considerable effort on

1 behalf of the Japanese-American negotiations and
2 worked unceasingly for the successful conclusion of
3 such negotiations. It will be shown that because of
4 his known sympathetic attitude he was tentatively
5 selected as one of the attendants to the suite to
6 accompany Prince KONOYE on his proposed meeting with
7 President Roosevelt, and he actually participated
8 in preparing a steamship to carry the delegates to
9 the proposed meeting.

10
11 It will be shown that the alleged state-
12 ments made by OKA and referred to by the prosecution
13 as proof of his power to stop the war, record page
14 16,971, were in fact messages being delivered by
15 him for and on behalf of his superiors. This is
16 another erroneous premise relied upon by the prose-
17 cution which falls of its own weight. It is indeed
18 very flattering to the accused to credit him with
19 absolute power to plunge his nation into war, when
20 he was only a bureau chief, but the true facts will
21 point out the utter absurdity of this contention.

22 Similarly, the assertion that the formula
23 for the American-Japanese negotiations was under the
24 direct personal influence of OKA is based upon an
25 erroneous conception. It will be shown that the
Foreign Office was in charge of the preparation of

1 said formula and that OKA was in no position to
2 exercise any personal influence in drafting such
3 an important policy. The evidence already adduced
4 and to be adduced will show that the formula was
5 prepared by the Foreign Office and copies were sent
6 to all the Ministers for their suggestions. The Navy
7 made its suggestions from time to time and in accord-
8 ance with the regular routine procedure. It will be
9 demonstrated that the foregoing presumption, which
10 is based on exhibit 1115, record page 16,970, is
11 erroneous and that the true interpretation of OKA's
12 connection with said formula is limited to the pro-
13 cedure outlined above. It is also recalled that the
14 prosecution's interpretation has been corrected by
15 the defendant KIDO on page 31,238 of the record.

16
17 The prosecution also laid great emphasis
18 upon OKA's presumed powers by stating that he
19 attempted to bolster the TOJO Cabinet in 1944 by
20 urging Admiral YONAI to join the Cabinet. However,
21 the evidence will dissipate this presumption by
22 showing the true facts through the Navy Minister who
23 ordered OKA to make this inquiry on his behalf.

24 It has likewise been contended that OKA's
25 appointment to a great number of committees was also
proof of his great importance. Again it is only a

1 presumption, based upon no proof of any specific
2 act or acts. It will be shown that, by virtue of
3 his position as Director of the Naval Affairs Bureau,
4 OKA was pursuant to custom and procedure automatic-
5 ally appointed to many committees, for the purpose
6 of carrying out liaison work with Bureau heads of
7 the other Ministries. It will appear that the
8 appointment thus accompanied the office regardless
9 of the individual. It will be shown that he seldom,
10 if ever, attended the meetings of the various
11 committees referred to by the prosecution in ex-
12 hibit 120, and usually required the various section
13 heads or the person in charge to attend to those
14 matters with which they were directly concerned.
15 The primary reason for such committee meetings was
16 the exchange of information between the various c
17 ministries.

18 The defendant is charged with crimes against
19 humanity in Group III of the Indictment, and the
20 evidence again is based upon presumption.

21 The prosecution alleges that the Naval
22 Affairs Bureau had similar jurisdiction to the
23 Military Affairs Bureau for the handling of prisoners
24 of war. The evidence already adduced has clearly
25 proven that prisoners of war were handled only by

1 the Army through the Prisoner of War Information
2 Bureau and the Army organs. In some instances the
3 naval combat units would temporarily hold prisoners
4 before turning them over to the Army and those were
5 handled by the respective commanders of the units
6 as a part of operations. Similarly, when some
7 prisoners were temporarily held in a naval station
8 camp they were held under the supervision and con-
9 trol of the commander of said naval station. The
10 only requirement under the naval regulations was
11 that the names and the number of prisoners being
12 held should be reported to the Navy Minister for
13 administrative purposes. The evidence adduced and
14 to be adduced will convincingly prove that notices
15 of protests were usually addressed to the Chief of
16 the Prisoner of War Information Bureau and/or the
17 War Vice Minister. In only one instance was it
18 shown that a copy of a letter was forwarded to the
19 Naval Affairs Bureau. This was in April, 1945, about
20 one year subsequent to the defendant's vacating that
21 office.

22 Insofar as the atrocities at sea were con-
23 cerned, there was no proof of the fact that the Navy
24 Ministry or its subservient Naval Affairs Bureau
25 were responsible for or had knowledge of the acts

1 charged. The evidence already adduced has demon-
2 strated that no overall policy was ever adopted or
3 pursued by the General Staff which ordered the
4 destruction or mistreatment of prisoners and sur-
5 vivors but to the contrary many specific orders
6 requiring fair treatment were introduced into
7 evidence. It was charged that the Central Command
8 issued verbal orders for the destruction of prisoners
9 of war, but this was emphatically denied by the
10 General Staff Commander. However, it will appear
11 that any attempt on the part of the prosecution to
12 fix any responsibility upon the defendant OKA for
13 these acts is utterly baseless and without any
14 foundation whatsoever.

15 The defendant OKA was appointed Vice-
16 Minister of the Navy on 18 July 1944 and served in
17 this capacity until August 5, 1944. On September
18 9, 1944, he was appointed Commander of the Chinkai
19 Naval Station and served until June, 1945, when he
20 retired and was put on the reserve list.

21 We respectfully submit that no evidence
22 has been introduced to substantiate the charges
23 made against the defendant OKA, and the facts to be
24 related will clearly show that the case against him
25 is based on a misconception; that the positions

1 charged. The evidence already adduced has demon-
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3 pursued by the General Staff which ordered the
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5 vivors but to the contrary many specific orders
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17 this capacity until August 5, 1944. On September
18 9, 1944, he was appointed Commander of the Chinkai
19 Naval Station and served until June, 1945, when he
20 retired and was put on the reserve list.

21 We respectfully submit that no evidence
22 has been introduced to substantiate the charges
23 made against the defendant OKA, and the facts to be
24 related will clearly show that the case against him
25 is based on a misconception; that the positions

1 occupied by OKA, as one of the subordinates in the
2 Navy Ministry, gave him no authority to participate
3 in formulating important state policies; that he
4 could not and did not participate in any conspiracy
5 to wage a war of aggression but, as a subordinate
6 member of the fighting forces, was guilty of
7 "faithfully serving his country," once the war began.

8 I offer in evidence defense document No.
9 1902, which is the affidavit of the witness TOMITA,
10 Kenji, who is presently out of the city. Prosecution
11 counsel has waived his appearance at this time, at
12 my request, without prejudice and with the under-
13 standing that if the Tribunal or if counsel, with
14 the permission of the Tribunal, wish to question
15 TOMITA, he will be produced accordingly.

16 ACTING PRESIDENT: The document will be
17 admitted under those conditions.

18 CLERK OF THE COURT: Defense document 1902
19 will receive exhibit No. 3467.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 3467 and received in evidence.)

23 MR. ROBERTS: I shall read exhibit No.
24 3467, omitting the formal parts:

25 "I occupied the position of Chief Secretary

1 of the Cabinet from 22 July 1940 to October 15,
2 1941, during which time I had frequent interviews
3 with Navy Minister OIKAWA, Koshiro, and OKA,
4 Takazumi, Director of the Naval Affairs Bureau.
5 They frequently expressed themselves as being
6 anxious to continue with the American-Japanese
7 diplomatic negotiations and also expressed a sin-
8 cere desire to help bring about a successful con-
9 sumption of such negotiations.

10 "On July 16, 1941, the Second KONOYE
11 Cabinet resigned and the Third KONOYE Cabinet was
12 formed. The resignation took place because it was
13 felt that MATSUCKA's presence would be a hindrance
14 to the progress of the Japanese-American negotiations.
15 The Third KONOYE Cabinet was formed about July 20.
16 The primary reason for the formation of this
17 Cabinet was to expedite the proposed negotiations
18 with the United States. While discussing the pro-
19 posal, I had occasion to have frequent interviews
20 with OKA since August, 1941. He expressed himself
21 as being most anxious to continue Japanese-American
22 negotiations and emphasized the fact that KONOYE
23 should be delegated with full discretionary powers
24 to negotiate with Roosevelt in order to settle the
25 matter as quickly as possible. OKA further stated

1 that he would assist in making preparations for a
2 ship to transport the delegation and hoped to be-
3 come a member of such a suite in attempting to
4 consummate the negotiations. On August 17, 1941,
5 the suggestion was first made to President Roosevelt
6 by Ambassador NOMURA personally concerning our re-
7 quest for a meeting between KONOYE and Roosevelt.

8 "On October 11, 1941, I paid a visit to OKA
9 at his residence and told him that a meeting was to
10 be held on the following day, October 12, at Prince
11 KONOYE's house in Ogikubo and I hoped that a strong
12 stand would be taken by the Navy to support Prince
13 KONOYE. The general feeling in the Navy was already
14 inclined to oppose continuation of the negotiations,
15 and OKA at that time stated that Prince KONOYE
16 should be encouraged to continue the negotiations.
17 Later, the same evening, I called on Navy Minister
18 OIKAWA at his official residence, at which time the
19 Navy Minister also stated that he wished to avoid
20 an American-Japanese war and that it was his desire
21 that the negotiations be continued by all means.
22 He stated however that the Navy, in view of its
23 position as a fighting unit, couldn't officially
24 make a statement that it was opposed to war; that
25 it was the duty of the Navy to observe orders if it

1 became necessary to fight and the decision whether
2 to wage war or not was a diplomatic question which
3 was appropriately within the province of the Premier
4 for determination. To these observations, I ex-
5 pressed the wish that it would be well for the Navy
6 Minister at the Ogikubo Conference of the 12th of
7 October to support Premier KONOYE in his efforts
8 to continue American-Japanese negotiations.

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K 1 "The next morning, October 12, I received a
a 2 telephone call from OKA who stated that the Navy Minister
p 3 at the conference being held the same date intended to
l 4 state that the decision for war or peace would be left
e 5 in the hands of the Prime Minister. He further stated
a 6 that the navy could not decide whether a war should be
u 7 waged or not, that it was a matter to be determined by
& 8 the Prime Minister although it was desired that the
K 9 Prime Minister should definitely pursue his course in
n 10 order that war might be avoided. At that time OKA ob-
a 11 served that the KONOYE Cabinet should not resign so
p 12 that it might continue with its efforts to bring about
p 13 a compromise and that if it did resign there was a
14 grave danger of war breaking out. He urged me to do
15 everything possible to prevent Prince KONOYE from re-
16 signing. He therefore stated that for all practical
17 purposes he hoped that the American-Japanese negotiations
18 would be successfully concluded.

19 "Thereafter when the Third KONOYE Cabinet re-
20 signed OKA expressed himself as being gloomy over the
21 prospects of the American-Japanese negotiations. Even
22 after the resignation of the Third KONOYE Cabinet OKA
23 kept Prince KONOYE informed of the subsequent develop-
24 ments pertaining to the American-Japanese negotiations
25 through me. He stated that this was because Prince

1 KONOYE was one of the important senior statesmen and it
2 was his intention to activate Prince KONOYE to continue
3 his efforts to bring about peace between the United
4 States and Japan.

5 "OKA also stated that he did not think Japan
6 should under any circumstances engage in a full-scale
7 conflict with a powerful country like the United States.
8 However, he frequently expressed himself as being a
9 subordinate who would be compelled to follow orders
10 whether or not they were in accord with his own personal
11 views.

12 "During the many times that I came in contact
13 with OKA I observed that he was a man who worked under
14 orders and did not disregard the wishes of his superiors."

15 At this time my co-counsel, Mr. SOMIYA, will
16 introduce the next witness.

17 ACTING PRESIDENT: Mr. SOMIYA.

18 MR. SOMIYA: I should now like to call witness
19 HOSHINA, Zenshiro.
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1 Z E N S H I R O H O S H I N A, called as a witness
2 on behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Witness, state your name and address to the
7 Tribunal.

8 A My name is HOSHINA, Zenshiro. My address is
9 No. 959 Tamagawa Nakamachi, 1-Chome, Setagaya-ku, Tokyo.

10 MR. SOMIYA: May the witness be shown defense
11 document No. 2737?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Is that your affidavit, made by you?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. SOMIYA: I present in evidence defense
19 document No. 2737.

20 ACTING PRESIDENT: Commander Robinson.

21 COMMANDER ROBINSON: Mr. President and Members
22 of the Tribunal, the prosecution has no objection to
23 defense document 2737 except to paragraph 4 at page 2.
24 The ground of the objection is that this statement is not
25 a statement of fact but is merely the opinion and

1 conclusion of the witness on an issue which is within
2 the exclusive jurisdiction of this Tribunal.

3 ACTING PRESIDENT: Is that your only objection?

4 COMMANDER ROBINSON: Yes, it is.

5 ACTING PRESIDENT: The objection is sustained
6 as to paragraph 4; otherwise the document will be ad-
7 mitted into evidence.

8 CLERK OF THE COURT: Defense document 2737 will
9 receive exhibit No. 3468.

10 (Whereupon, the document above
11 referred to was marked defense exhibit No.
12 3468 and received in evidence.)

13 MR. SONIYA: I now read exhibit 3468:

14 "1. I am former Vice Admiral in the Navy. I
15 was Chief of Military Preparations Bureau, Navy Ministry,
16 from November 15, 1940 to May 1945. On May 15, 1945, I
17 assumed the post of Chief of Naval Affairs Bureau, and
18 held that position up to November 17, 1945. Therefore,
19 I am familiar with the duties of Chief of Naval Affairs
20 Bureau.

21 "2. The Naval Affairs Bureau, as set forth in
22 the government-established organization of Navy Ministry,
23 like other bureaus in the Navy Ministry, is subject to
24 the commands and orders of the Navy Minister, and func-
25 tions under the direct supervision of the Vice Navy

1 Minister. Therefore, as Chief of Naval Affairs Bureau,
2 OKA was responsible, like chiefs of other bureaus, only
3 to the Navy Minister in the performance of his duties.

4 "3. The Chief of Naval Affairs Bureau drafts
5 plans for matters within his functions as provided for
6 in the government-established organization of Navy
7 Ministry; submits them to the Navy Minister for his
8 approval; and goes through the routine procedure to
9 execute such approved matters. So, OKA carried out his
10 duties as one of the aides to the Navy Minister." ***

11 "5. As Chief of Naval Affairs Bureau, OKA
12 could not resign from his office on the ground that his
13 opinion was different from that of the Navy Minister or
14 that of the Vice Navy Minister. But when being ap-
15 pointed, OKA's consent was not required. On the other
16 hand, although the Navy Minister and the Vice Navy
17 Minister are naval officers, since their status are those
18 of civilians, they are free to submit their resignations
19 at any time. Also, they are appointed upon their con-
20 sent.

21 "6. In the interrogation of Admiral NAGANO
22 (court exhibit No. 1197) it appears that the Chief of
23 Naval Affairs Bureau drafted operational plans (this
24 error was corrected in the court.) This sort of opera-
25 tional plans were drafted by the Naval General Staff.

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1 The operational plans for Pearl Harbor and other opera-
2 tional matters were the responsibility of the Naval
3 General Staff or the Commander in Chief of the Fleet,
4 and OKA, as Director of Naval Affairs Bureau, who was
5 in charge of naval administration, was not connected
6 therewith.
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"7). When it was necessary to negotiate with

1 outsiders in handling matters coming within its juris-
2 diction as set forth in the government-established
3 organization of Navy Ministry, it was customary for
4 the Ministry to do so through the Naval Affairs
5 Bureau. For that reason the Chief of Naval Affairs
6 Bureau or members of the Bureau, as a matter of con-
7 venience in maintaining liaison between the Navy and
8 the various ministries of the Government were fre-
9 quently appointed as councillors or members of the
10 committees or of those ministries.

11 "In other words, among various jurisdictional
12 matters there were some which involved other ministries,
13 and which often required their cooperation. For this
14 reason when it was necessary, committees were organized,
15 the members being appointed from the various minis-
16 tries concerned. As members of these committees,
17 the Navy Ministry dispatched men from its appropriate
18 bureaus and whenever matters came under the jurisdic-
19 tion of the Naval Affairs Bureau, men within the
20 Bureau were appointed as members to such committees.
21 In most cases it was the custom to appoint as committee
22 members the Chiefs of bureaus or chiefs of sections
23 and their principal duties were to act as liaison men.

24 "Because there were so many committees, with
25

1 the exception of important committees which Chiefs
2 of Bureaus and sections themselves attended, in most
3 cases the principal persons within the bureau attend-
4 ed these committee meetings, so it was not often that
5 OKA attended in person.

6 "The examples are given in the following:

7 "a) As Chief of Naval Affairs Bureau, OKA
8 was automatically appointed an official of the National
9 General Mobilization Committee. However, the bills
10 introduced in the meetings were prepared by the Plan-
11 ning Board or by the ministries concerned. Due to his
12 other numerous duties, it was rare that he attended
13 these meetings in person.

14 "b) As Chief of Naval Affairs Bureau, OKA
15 was automatically appointed a councillor of the Plan-
16 ning Board. It was customary to submit important
17 matters prepared by the Planning Board to the meeting
18 of councillors, but as compared with councillors from
19 other Ministries, OKA did not possess special authority
20 and he seldom attended the committee meetings.

21 "c) As Chief of Naval Affairs Bureau, OKA
22 was automatically appointed a councillor of the Man-
23 churia Affairs Bureau, but since the Navy had little
24 to do with Manchuria, his appointment was merely nominal.
25 The person in charge of the matters concerned or a sec-

1 tion chief of the Bureau attended the meetings, and
2 OKA rarely attended.

3 "d) As Chief of Naval Affairs Bureau, OKA
4 was automatically appointed a councillor of the
5 South Seas Board in the Overseas Affairs Ministry,
6 but its meetings were rarely held.

7 "e) As Chief of Naval Affairs Bureau, OKA
8 was automatically appointed a member of the Cabinet
9 Information Section. It held regular luncheon meet-
10 ings and views on the problems submitted by the Infor-
11 mation Section were exchanged. There was no connec-
12 tion whatever with the strengthening of the Anti-
13 Comintern Pact or the Tripartite relations. Either a
14 section chief or a member from the Naval Affairs Bureau
15 attended the meetings and OKA's presence was very rare.

16 "f) As Chief of Naval Affairs Bureau, OKA
17 was automatically appointed a member of the Admirals
18 Committee. The Admirals Committee held meetings prin-
19 cipally to discuss the matter of promotion in the navy,
20 but not one meeting was held during his tenure of office.

21 "During the time I was Chief of Military
22 Preparations Bureau in the Navy Ministry, I was not
23 only directly associated with OKA in connection with
24 my duties, but socially as well I was in contact with
25 him. Therefore, I knew well that OKA worked hard to

1 avoid war with the United States. As a Chief of
2 one of the bureaus in the Navy Ministry, I constantly
3 exchanged views with OKA, and I know that he had a
4 strong desire that Japan should avoid war with the
5 United States and that he did not keep his desire to
6 himself. When the negotiations ended unsuccessfully,
7 he was very much disappointed."

8 ACTING PRESIDENT: We will recess for fif-
9 teen minutes.

10 (Whereupon, at 1445, a recess
11 was taken until 1500, after which the
12 proceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 MR. SOLIYA: The prosecution may cross-
4 examine the witness.

5 ACTING PRESIDENT: I have two questions by
6 a member of the Tribunal.

7 What were the duties of the Navy Minister
8 with regard to the prisoners of war who were tempor-
9 arily in the custody of the Navy?

10 THE WITNESS: May I have the question re-
11 peated?

12 THE MONITOR: Japanese court reporter.

13 (Whereupon, the Japanese court
14 reporter read.)

15 THE WITNESS: With regard to prisoners of
16 war under naval jurisdiction, the Navy Minister acted
17 according to fixed regulations, and I know of no
18 pertinent orders that were issued by the Navy Minis-
19 ter in connection with this matter.

20 ACTING PRESIDENT: Did the Navy Minister
21 have regulations covering the treatment of prisoners
22 of war?

23 THE WITNESS: In view of the fact that I
24 was not the Chief of the Naval Affairs Bureau during
25 that time -- wartime, I believe that the Court will

1 have a more satisfactory reply to that question from
2 more qualified witnesses.

3 ACTING PRESIDENT: Do you know what were
4 the duties of the Chief of the Naval Affairs Bureau
5 with regard to prisoners of war?

6 THE WITNESS: That is to assist the Minister
7 of the Navy and to see to it that any decisions
8 determined by the Navy Minister were carried out --
9 adequately carried out.

10 ACTING PRESIDENT: Very well.

11 CAPTAIN ROBINSON: Mr. President and Mem-
12 bers of the Tribunal.

13 CROSS-EXAMINATION

14 BY CAPTAIN ROBINSON:

15 Q Admiral HOSHINA, you were the Chief of the
16 Naval Affairs Bureau for six months in 1945.

17 A Yes.

18 Q Were you officially a member of the staff
19 in the Naval Affairs Bureau while the defendant,
20 Admiral OKA, was Chief of the bureau?

21 A No.

22 Q Therefore, your statements in regard to his
23 conduct of his duties as chief of the bureau are not
24 based on personal observation by you as a member of
25 the bureau staff.

1 A No, but I am quite familiar with how Admiral
2 OKA, as Director of the Naval Affairs Bureau, con-
3 ducted the business of his department because, while
4 he was Chief of the Naval Affairs Bureau, I was Chief
5 of the Military Preparations Bureau of the same
6 ministry and had occasions to meet him several times
7 a day in the performance of our respective duties.

8 Q Therefore, you had the opportunity to ob-
9 serve the manner in which he performed his duties
10 in that bureau with respect to prisoners of war,
11 did you not?

12 A Yes. But as far as the actual treatment of
13 prisoners of war were concerned, this matter was
14 entirely in the hands of the commander in the field
15 or naval units in the field. But my understanding
16 is only limited to the knowledge that adequate
17 measures were being carried out in accordance with
18 general orders issued by the Navy ministry.

19 Q That, of course, is not an answer to my
20 question. You have no knowledge, then, of positive
21 action taken by the defendant OKA in the Naval Affairs
22 Bureau in connection with prisoners of war, is that
23 right, yes or no?

24 A I am not familiar with the details.

25 Q In your affidavit, paragraph No. 2, second

1 sentence, you state that the defendant OKA was re-
2 sponsible only to the Navy Minister in the perform-
3 ance of his duties. Now, by that statement you
4 do not mean to suggest that OKA was not responsible
5 under the constitutional laws of Japan, including
6 international treaty law, for failure to perform his
7 duties as required by law, do you?

8 L.R. ROBERTS: I object on the ground he is
9 asking the witness to take the place of this Court
10 in deciding whether or not the defendant was violat-
11 ing any laws and not performing his duties.

12 ACTING PRESIDENT: Objection overruled.

13 Q (Continuing) Your answer, please.

14 A Granted that there was such a situation,
15 then the Director of the Military Affairs Bureau
16 will be responsible for not having sufficiently
17 assisted the Navy Minister in the performance of
18 the latter's duties.

19 Q And do you mean to state then that OKA could
20 escape responsibility under the law of Japan, includ-
21 ing, of course, treaties, by putting all responsi-
22 bility on the defendant SHILADA as Navy Minister?
23 Is that your position?

24 A I could not quite comprehend the question.
25 Is my understanding of the question correct? Did

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1 you mean to say that OKA was attempting to place
2 all responsibilities on the Minister of the Navy and
3 not assuming them himself?
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1 Q Will the reporter please read the question
2 to the witness just as it was asked?

3 THE MONITOR: Japanese court reporter.

4 (Whereupon, the Japanese court
5 reporter read.)

6 A From a legal point of view the responsi-
7 bility resided only in the Minister of the Navy;
8 however, OKA has responsibilities to the Navy Minister.

9 Q That still is no answer to my question,
10 Mr. Witness. I will not repeat the question. I
11 think your answer is before the Court for what the
12 Court may see fit to place upon it.

13 In paragraph 5 of your affidavit you state
14 that OKA could not resign from his office as Chief
15 of the Naval Affairs Bureau on the ground of differ-
16 ences of opinion with the Navy Minister. As a matter
17 of fact, Admiral, could not OKA have caused the end
18 of his career as Chief of the Naval Affairs Bureau
19 very promptly by simply opposing the opinions of
20 Admiral SHIMADA as Navy Minister or General TOJO
21 as Premier?

22 A No, he could not do that. Naval officers,
23 or in fact all military officers, were assigned to
24 posts and their actions were governed by orders. They
25 could not resign their position at their own request

1 and unless any shifts were made by their superiors
2 any officer could not relinquish any post of his own
3 accord.

4 Q That is just what I am asking about. Shifts
5 could be made by their superiors; therefore, if he
6 had not accommodated his superiors in their orders
7 he could have been shifted, couldn't he?

8 MR. ROBERTS: I object to that on the
9 ground it is pure speculation.

10 ACTING PRESIDENT: Objection overruled.

11 A Well, even though, assuming that OKA opposed
12 the policy of the Navy Minister, the entire matter
13 of his remaining in office or leaving office depended
14 entirely on the desire of the Navy Minister himself
15 and unless the Navy Minister himself dismissed OKA
16 from office OKA was unable to leave his post on his
17 own accord.

18 Q His performance, however, in office was such
19 that he was retained without having been given a
20 change of assignment?

21 A I would not know that; you will have to ask
22 the Minister himself.

23 Q You do not know of any occasion when the
24 defendant OKA was subjected to court-martial or given
25 a change of assignment because of his failure to

1 cooperate with the Navy Minister, Admiral SHIMADA,
2 do you?

3 A No, there were no such cases.

4 CAPTAIN ROBINSON: That is all.

5 MR. SOMIYA: May the witness be released
6 on the usual terms?

7 ACTING PRESIDENT: He will be released
8 accordingly.

9 (Whereupon, the witness was excused.)

10 MR. SOMIYA: I next call the witness SHIBA,
11 Katsuo.

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SHIBA

DIRECT

33,319

1 K A T S U O S H I B A, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SOMIYA:

6 Q Your name and address, please?

7 A My name is SHIBA, Katsuo; my address: 1083
8 Mogata-machi, 2-chome, Nakano-ku, Tokyo.

9 MR. SOMIYA: I ask that the witness be
10 handed defense document No. 2762.

11 Q Is that document drawn up by you?

12 A Yes.

13 Q Are the contents thereof true and correct?

14 A Yes.

15 MR. SOMIYA: I offer in evidence defense
16 document No. 2762.

17 ACTING PRESIDENT: The document will be
18 admitted.

19 CLERK OF THE COURT: Defense document 2762
20 will receive exhibit No. 3469.

21 (Whereupon, the document above
22 referred to was marked defense exhibit
23 No. 2762 and received in evidence.)

24 MR. SOMIYA: I now read court exhibit 3469:
25 "1. From November 1940 until January 1944,

1 I served in the Section Two of the Naval Affairs
2 Bureau, Navy Ministry. At the termination of the
3 war I held the rank of Captain. During the time I was
4 in the Naval Affairs Bureau, OKA was the Director of
5 Naval Affairs Bureau.

6 "2. From around September 1941, relations
7 between the United States and Japan became very
8 disturbed and the biggest problem was the question
9 of withdrawal of Japanese troops from China. There
10 was some opposition to this move, and we knew that
11 the Americans insisted upon this point. I heard from
12 OKA that he thought there was no harm acquiescing to
13 the withdrawal.

14 "3. OKA constantly advised his subordinates
15 that we should avoid war by all means. In the middle
16 of September there was a strong wave of feeling or
17 sentiment that these negotiations would fail, partic-
18 ularly in the Government. OKA used to come to us and
19 try to pacify us, or encourage us, and say that we
20 should not be discouraged, but should make every
21 effort to successfully conclude the negotiations.

22 "4. About October 16, 1941, the Third KONOYE
23 Cabinet resigned en bloc, and on October 18, 1941, the
24 TOJO Cabinet was formed. The TOJO Cabinet then de-
25 cided to scrap all previous understandings and start

1 afresh, and it considered the ways and means of this
2 new approach all during the month of October. In
3 November a proposed draft of new negotiations being
4 undertaken by the new Cabinet was completed. There
5 were two proposals, A and B, and the reply to these
6 proposals came on November 26 from the United States.
7 There was a great divergence between our note and the
8 American reply.

9 "5. When we received the American reply of
10 November 26, 1941, I went into OKA's office and he
11 said, 'This is indeed regrettable and the negotiations
12 are hopeless, and it might be difficult to avoid war.'
13 He shed tears and did not speak for some time. Then
14 he spoke to me again and said, 'If war is unavoidable
15 we must fight fairly and aboveboard.'

16 "6. If I remember correctly it was the 3rd
17 or 4th of December that a mimeographed copy of the final
18 note to the United States was turned over to by
19 OKA for study. This draft, I was informed, was pre-
20 pared by the Foreign Office. As to form I felt that
21 the note was inadequate as an ultimatum, and I sug-
22 gested that a clause be inserted that we reserved the
23 right of free action, which would make it a clear
24 as an ultimatum. Then he said, 'If that is so, I hope
25 you will make the necessary revision in the note.' I

1 afresh, and it considered the ways and means of this
2 new approach all during the month of October. In
3 November a proposed draft of new negotiations being
4 undertaken by the new Cabinet was completed. There
5 were two proposals, A and B, and the reply to these
6 proposals came on November 26 from the United States.
7 There was a great divergence between our note and the
8 American reply.

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10 November 26, 1941, I went into OKA's office and he
11 said, 'This is indeed regrettable and the negotiations
12 are hopeless, and it might be difficult to avoid war.'
13 He shed tears and did not speak for some time. Then
14 he spoke to me again and said, 'If war is unavoidable
15 we must fight fairly and aboveboard.'

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17 or 4th of December that a mimeographed copy of the final
18 note to the United States was turned over to by
19 OKA for study. This draft, I was informed, was pre-
20 pared by the Foreign Office. As to form I felt that
21 the note was inadequate as an ultimatum, and I sug-
22 gested that a clause be inserted that we reserved the
23 right of free action, which would make it a clear
24 as an ultimatum. Then he said, 'If that is so, I hope
25 you will make the necessary revision in the note.' I

1 then wrote in blue pencil at the end of this draft
2 that we reserve the right of free action. OKA expressed
3 himself as being of the same opinion concerning the
4 contents of the note and approved the suggested change.

5 "7. The reason I suggested the revision of
6 the note in order to make it a clear ultimatum was
7 because of the expression of OKA in urging us previously
8 to fight fairly and aboveboard, if it should become
9 necessary.

10 "8. Subsequently I had a further conversation
11 with OKA, who stated that he had discussed the sug-
12 gested change in the note with the Foreign Office
13 representative, who informed OKA that the additional
14 language was not necessary. OKA stated that he was
15 further informed that the note was considered an ulti-
16 matum in diplomatic language, and that the additional
17 phrase suggested would be unnecessary and superfluous.
18 He further stated that it was a matter in which he was
19 compelled to accede to the wishes of those in a better
20 position to pass upon such questions. I know from my
21 own personal knowledge that OKA worked faithfully and
22 expended considerable effort towards maintaining
23 peaceful relations with the United States.

24 "9. In the Greater East Asia Conference held
25 in November 1943, OKA Takazumi, SATO Kenryo, and many

1 others (including myself) were present as the attendants
2 of TOJO, Hideki, the representative of Japan. But the
3 Greater East Asia Ministry and the Foreign Office took
4 the leading part in preparing and running the conference,
5 and the attendants to the representative merely attended
6 the conference and took no active part."

7 The prosecution may cross-examine the witness.

8 ACTING PRESIDENT: Mr. Blakeney.

9 MR. BLAKENEY: I should like to ask one or two
10 questions on behalf of Mr. TOGO.

11 DIRECT EXAMINATION (Continued)

12 BY MR. BLAKENEY:

13 Q In paragraph 8 of your affidavit, Mr. Witness,
14 you state that Admiral OKA told you he had discussed
15 with a representative of the Foreign Ministry, the
16 question of the notification to be served upon the
17 United States. Did he tell you who that representative
18 was?

19 A No, he did not.

20 THE MONITOR: He did not specify that clearly.

21 Q What do you mean, clearly?

22 A He merely said a Foreign Office representative,
23 and did not specify who that representative was.

24 Q Did you know from any other source who that
25 representative was?

1 A No, I did not hear of it.

2 MR. BLAKENEY: That is all.

3 ACTING PRESIDENT: Captain Robinson.

4 CROSS-EXAMINATION

5 BY CAPTAIN ROBINSON:

6 Q Captain SHIBA, you state that you served in
7 Section Two of the Naval Affairs Bureau from 1940 to
8 1944 under the defendant Admiral OKA as Chief of the
9 bureau. Now, what were your duties in Section Two?

10 A Liaison with other government departments
11 with reference to matters pertaining to national defense.

12 Q And did you not also, under Article 9 of the
13 Imperial Ordinance of the Organization of the Navy
14 Ministry, exhibit 75 in this court, deal with matters
15 concerning international conventions and personnel
16 dispatched abroad?

17 A Yes, I was handling such matters.

18 Q And those matters concerning international
19 conventions included matters relating to prisoners of
20 war, did they not, under International Hague Treaty IV
21 of 1907?

22 A Yes, they were included.

23 Q What was your training and experience in
24 international law, Captain SHIBA?

25 A I attended lectures on international law when

I was a student at the Naval Staff College.

1 Q Those lectures were by Professor ENOMOTO, who
2 appeared as a witness in this Tribunal?

3 A Yes.

4 Q Now, in paragraph 6 at page 2 of your affidavit,
5 you say that you felt that the Japanese final note to
6 the United States was not adequate as an ultimatum,
7 is that not correct?

8 A Yes, as you say.

9 Q You suggested that the words be added that
10 Japan, and I quote your words, "reserved the right of
11 free action"; is that not correct?

12 A Yes.

13 Q And you say that you believed that the addi-
14 tion of those words would make the note clear as an
15 ultimatum?

16 A Yes.

17 Q Did you have in mind any former ultimatum by
18 the Japanese Government which had contained such words
19 or clauses?

20 A Yes, and also my recollections of the lectures
21 delivered by Professor ENOMOTO.

22 Q When and where had the former ultimatum to
23 which you refer been used?

24 A I think there was one presented to the Russian
25

I was a student at the Naval Staff College.

1 Q Those lectures were by Professor ENOMOTO, who
2 appeared as a witness in this Tribunal?

3 A Yes.

4 Q Now, in paragraph 6 at page 2 of your affidavit,
5 you say that you felt that the Japanese final note to
6 the United States was not adequate as an ultimatum,
7 is that not correct?

8 A Yes, as you say.

9 Q You suggested that the words be added that
10 Japan, and I quote your words, "reserved the right of
11 free action"; is that not correct?

12 A Yes.

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14 tion of those words would make the note clear as an
15 ultimatum?

16 A Yes.

17 Q Did you have in mind any former ultimatum by
18 the Japanese Government which had contained such words
19 or clauses?

20 A Yes, and also my recollections of the lectures
21 delivered by Professor ENOMOTO.

22 Q When and where had the former ultimatum to
23 which you refer been used?

24 A I think there was one presented to the Russian
25

1 Government at the time of the Russo-Japanese War.

2 Q And what about the one presented in 1914 to
3 the Imperial German Government?

4 The question is, did you have it in mind when
5 you were proposing what the ultimatum should contain
6 with regard to freedom of action?

7 A No, that was not in my mind.

8 Q In fact, you observed that the proposed Japanese
9 note to the United States concluded merely with the
10 words, quoting: "It is impossible to reach an agreement
11 through further negotiations"; and you thought by
12 adding your amendment, namely, "we reserve the right
13 of free action," you would thereby make the note con-
14 form to the requirements of the Third Hague Convention,
15 just as you considered former ultimatums of Japan
16 had done; is that correct?

17 A I thought that such expression -- it would
18 be well if such expression could be used in the language
19 of diplomacy.

20 Q Now, is it not true that the defendant OKA
21 and you knew that even if your words "freedom of action"
22 had been added, the note would still have fallen far
23 short of the requirement of the international conven-
24 tions which you were administering, and particularly
25 of Hague Convention III?

1 A May I have the question repeated?

2 MR. ROBERTS: I object on the ground that he is
3 asking this witness for legal opinion. I do not believe
4 he is qualified to give a legal opinion.

5 ACTING PRESIDENT: This witness has testified
6 he has handled international questions there in his
7 section of the bureau. If the question was changed to
8 what he thought instead of what he knew, it might be
9 admissible -- it would be.

10 MR. ROBERTS: He can answer as to the facts and
11 not the law involved.

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1 Q The question, then, Mr. Witness, would be
2 whether you and the defendant, Admiral OKA, did not
3 really believe, think, that if your words, "freedom
4 of action," had been added the note would still have
5 fallen short of the requirements of the Third Hague
6 Convention for such a note?

7 MR. ROBERTS: I still object on the ground
8 that he is assuming that there are certain facts in
9 evidence which have not been proved by the prosecu-
10 tion.

11 ACTING PRESIDENT: This matter was just
12 ruled on. Objection overruled.

13 Q Please answer the question, Witness, please.

14 A I thought that if such language as I suggested
15 was incorporated into the note that would be sufficient.

16 Q Did OKA tell you that Foreign Minister TOGO
17 had opposed the amendment?

18 A No, he did not say that Foreign Minister
19 TOGO -- he did not specify any names such as Foreign
20 Minister TOGO. He merely said that the Foreign
21 Office was of the opinion that that was not necessary.

22 THE INTERPRETER: Correction: I did not
23 hear that the Foreign Minister made any such state-
24 ment. I heard that the Foreign Office's explanation
25 was that such an amendment as suggested was not

necessary.

1 Q Did you hear that the representatives of the
2 navy would not permit the note to be made so clearly an
3 ultimatum because they said that such an ultimatum
4 would cause a failure of the surprise attack?
5

6 A I have absolutely not heard of that.

7 Q When OKA stated to you that he -- and I quote
8 your words -- "he (OKA) was compelled to accede to
9 the wishes" of others in rejecting that clear ul-
10 timum, amendment, of yours, whom did he name as those
11 who compelled him to drop the proposed amendment?

12 A I have not heard of any names.

13 Q Did you or Admiral OKA protest to anyone in
14 regard to the omission of this amendment?

15 A With regard to Admiral OKA I do not know.
16 So far as I am concerned I did not do anything.

17 Q And so far as you know he did nothing either?

18 A May I have that repeated? I could not quite
19 get what you meant by "take measures."

20 MR. ROBERTS: I submit --

21 CAPTAIN ROBINSON: The question may be with-
22 drawn. It isn't necessary to take further time on it.
23 I want to ask you another, though.

24 Q Did I understand you to say, Mr. Witness,
25 that you made no protest to Admiral OKA or to

necessary.

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2 navy would not permit the note to be made so clearly an
3 ultimatum because they said that such an ultimatum
4 would cause a failure of the surprise attack?
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14 regard to the omission of this amendment?

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19 get what you meant by "take measures."

20 MR. ROBERTS: I submit --

21 CAPTAIN ROBINSON: The question may be with-
22 drawn. It isn't necessary to take further time on it.
23 I want to ask you another, though.

24 Q Did I understand you to say, Mr. Witness,
25 that you made no protest to Admiral OKA or to

1 anyone else with regard to dropping your proposed
2 amendment from the note that was to go to the United
3 States?

4 A Yes.

5 Q Therefore, you gave up without protest your
6 belief that the note in the form in which it later
7 actually was sent to the United States was not an
8 ultimatum, not in accordance with yours and Admiral
9 OKA's belief that Japan must fight fairly and above-
10 board. Is not that the result of the statement that
11 you presented in your affidavit?

12 MR. ROBERTS: I object on the ground that
13 this is apparently a statement -- not a question.
14 If it is a question it has already been answered
15 by the witness.

16 ACTING PRESIDENT: Objection sustained.

17 Q Just one further question. You stated a
18 moment ago, Mr. Witness, that you did not have in
19 mind the German ultimatum of 1914, that is, the
20 Japanese ultimatum to Germany in 1914, when you
21 proposed this amendment. I have just one question
22 on that point.

23 Was your failure to take into consideration
24 the ultimatum of Japan to Germany of August 1914 due to
25 your lack of confidence about that ultimatum or due

1 to the fact that you knew about it but thought that
2 it would not apply?

3 MR. ROBERTS: I object on the ground it is
4 immaterial and irrelevant.

5 ACTING PRESIDENT: Objection overruled.

6 Q Your answer, please?

7 A No, it just did not occur to me. That is all.

8 CAPTAIN ROBINSON: That is all.

9 ACTING PRESIDENT: Will there be any re-
10 direct examination?

11 I have one question by a Member of the
12 Tribunal.

13 What were your duties in regard to prisoners
14 of war? I mean your duties, Witness.

15 THE WITNESS: I had no specific duties.

16 MR. BRANNON: I have two questions I would
17 like to ask the witness.

18 ACTING PRESIDENT: You can ask them in the
19 morning.

20 We will adjourn until half-past nine tomorrow
21 morning.

22
23 (Whereupon, at 1600, an adjournment
24 was taken until Tuesday, 18 November, 1947,
25 at 0930.)

18 NOVEMBER 1947

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18 NOVEMBER 1947

I N D E X
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EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2761	3470		Affidavit of OIKAWA, Koshiro		33336
1780	3471		Affidavit of NOMURA, Naokuni		33356
2691	3472		Affidavit of TAKATA, Toshitane		33365
2828	3473		Affidavit of OKA, Takazumi		33379

18 NOVEMBER 1947

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1 Tuesday, 18 November 1947

2 - - -
3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -
12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.
20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All of the accused are
4 present except MATSUI, who is represented by coun-
5 sel. We have a certificate from the prison surgeon
6 at Sugamo to the effect that he is ill and unable
7 to attend the trial today. The certificate will
8 be recorded and filed.

9 Mr. Brannon.

10 MR. BRANNON: I wish to ask a few ques-
11 tions on behalf of the accused SHIMADA, pertaining
12 to a matter brought up by the prosecution.
13

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15 K A T S U O S H I B A, called as a witness on
16 behalf of the defense, resumed the stand and
17 testified through Japanese interpreters as
18 follows:

19 CROSS-EXAMINATION (Continued)

20 BY MR. BRANNON:

21 Q Now, Mr. SHIBA, in paragraph 8 of your affi-
22 davit, you state that OKA "was compelled to accede
23 to the wishes of those in a better position to pass
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22 to the wishes of those in a better position to pass
23 upon such questions," and the prosecution further
24 asked you to name those who compelled him to drop
25 the proposed amendment, and your answer was, and I

1 quote, "I have not heard of any names."

2 Now, regardless of whether you know the
3 names, can you tell us the section or organization
4 of the government to which you refer?

5 A I meant the authorities of the Foreign
6 Office, which was the government office concerned..
7 and which also had charge of such matters.

8 Q Then, I will ask you if there was ever any
9 member, any section, or any group of the Navy which
10 at any time ever opposed your proposed correction
11 to the last notification?

12 A There were no such persons in the Navy
13 Ministry.

14 Q And, when it came to the question --

15 THE INTERPRETER: Correction: "...in the
16 Navy."

17 Q (Continuing) -- of passing on a diplomatic
18 notice or a matter relating to international law,
19 did your section consider themselves more expert than
20 the Foreign Office and therefore in a position to
21 insist upon your opinion?

22 A We didn't think so. We felt that the
23 Foreign Ministry was more versed in such matters
24 than we.
25

MR. BRANNON: That is all, Mr. President.

1 MR. ROBERTS: May the witness be excused
2 on the usual terms?

3 ACTING PRESIDENT: He will be so excused.

4 (Whereupon, the witness was ex-
5 cused.)

6 - - -

7 MR. ROBERTS: We call as our next witness
8 OIKAWA, Koshiro.
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1 MR. ROBERTS: May the witness be excused
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6 - - -

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1 K O S H I R O O I K A W A, recalled as a witness
2 on behalf of the defense, having been previous-
3 ly sworn, testified through Japanese interp-
4 reters as follows:

5 ACTING PRESIDENT: You are reminded that
6 you are still under your former oath.

7 DIRECT EXAMINATION

8 BY MR. ROBERTS:

9 Q Please state your name and address.

10 A My name is OIKAWA, Koshiro; my address is
11 112 Tamagawa, Kaminoge-machi, Setagaya-ku, Tokyo.

12 MR. ROBERTS: May the witness be shown
13 defense document No. 2761.

14 (Whereupon, a document was handed
15 to the witness.)

16 Q Is this your affidavit?

17 A Yes.

18 Q Are the contents therein correct and
19 true?

20 A Yes.

21 MR. ROBERTS: I offer in evidence defense
22 document No. 2761.

23 ACTING PRESIDENT: The document will be
24 admitted.

25 CLERK OF THE COURT: Defense document No.

1 2761 will receive exhibit No. 3470.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3470 and received in evidence.)

5 MR. ROBERTS: I shall read exhibit 3470,
6 omitting the formal parts:

7 "I was a former Admiral in the Navy. I was
8 appointed Navy Minister in the Third KONOYE Cabinet
9 on July 18, 1941, and served in that capacity until
10 the said Cabinet resigned on October 16, 1941.
11 During my tenure of office, OKA, Takazumi, was the
12 Director of the Naval Affairs Bureau.

13 "I attended the Liaison Conferences between
14 the Imperial Headquarters and the Government. This
15 was a gathering of the high ranking men in the
16 Supreme Command, that is, Chief of Army General
17 Staff, Chief of Naval General Staff, Deputy Chiefs
18 of both Staffs and the Cabinet Ministers, represent-
19 ing the Government, in order to bring about an
20 understanding between the political functions and
21 the Supreme Command. The meeting was not formally
22 arranged, the discussions were informal, and no
23 votes were taken. The matters which were unanimous-
24 ly agreed upon at the Liaison Conference were
25 carried out by Government organs or the Supreme

1 MR. ROBERTS: It is a correction merely,
2 your Honor.

3 ACTING PRESIDENT: All right, you can
4 correct it at the proper time.

5 BY CAPTAIN ROBINSON:

6 Q Now a final question, Mr. Witness:

7 You refer in your affidavit, at page 4, to
8 Prince KONOYE and the navy. At the middle of the
9 page you state, and I quote your words:

10 "Needless to say, the navy did all it
11 could to avoid war with the United States. And this
12 sentiment among naval circles was communicated to
13 Premier KONOYE"; and dropping down a few sentences:
14 "As the Prime Minister too" -- that is, KONOYE --
15 "was of exactly the same opinion as the navy..."

16 Now, as a matter of fact, is it not true
17 that Prince KONOYE on or about October 16, 1941, the
18 day when his cabinet, including yourself, went out of
19 office, said this? "It is indeed cowardly of the
20 navy not to avow its opposition to war with America."

21 A I have never heard of Prince KONOYE making
22 such a statement.

23 Q And are you aware, Mr. Witness, of the fact
24 that the defendant KIDO stated in this courtroom, upon
25 cross-examination by the Chief of Counsel, that the

1 Command in the regular channels. The Liaison Con-
2 ference not being an official organ, therefore it
3 is not an organ which is charged with responsibility,
4 it was simply held for the convenience of those
5 parties concerned who met and discussed matters in-
6 formally. For that reason, the responsibility of
7 the Chiefs of Staff of both services and of the
8 State Ministers could not be diminished or altered
9 on account of the Liaison Conferences.

10 "OKA attended the Liaison Conferences in
11 the capacity of 'Kanji' or Secretary, but was
12 'Jimukan' or Official Clerk of the Conference, and
13 not a member of the Conference. Therefore, he did
14 not affix his signature to matters taken up at the
15 Conference. In the capacity of Secretary, OKA could
16 only make explanations at the Conference when he was
17 asked to do so by a member of the Conference. He
18 had no part in the discussion, and he had nothing
19 to do with the making of any decisions whatsoever.
20 His primary duty was to supply information to the
21 members when called upon to do so.

22 "OKA likewise usually attended the Imperial
23 Conferences with the Navy Minister if not ordered to
24 go elsewhere. His presence at the Imperial Confer-
25 ence gave him no right of expression or voting, and

1 he had no voice at the Conference.

2 "OKA, as Director of Naval Affairs Bureau,
3 attended the meetings of the Investigation Committee
4 of the Privy Council as 'explainer' only when inves-
5 tigation involved matters pertaining to the Navy,
6 he was never permitted to express himself or vote
7 at such meetings, and could not take part in the
8 decisions which were arrived at. It was his duty
9 to present data which was required by the Navy
10 Minister when he spoke at such meetings. There were
11 also 'explainers' from other Ministers, who attended
12 these meetings, but their presence did not affect
13 the decisions reached at such meetings. The pre-
14 paration of the agenda for these meetings was pre-
15 pared by the Privy Council itself, and OKA, as the
16 Director of Naval Affairs Bureau, did not attend the
17 meetings of the Privy Council.

18 "OKA, as Director of Naval Affairs Bureau,
19 did not attend any of the Cabinet meetings.
20

21 "During my tenure of office as Navy Minister,
22 OKA always acted under my commands and orders and
23 never acted upon his own personal opinion. That
24 was not only due to Government organization, but I
25 observed that OKA was not the type of person who
acted in disregard of his superiors.

1 "The position of Director of Naval Affairs
2 Bureau at the Imperial Headquarters, together with
3 the Vice Navy Minister, Director of Mobilization
4 Bureau and two or three Chiefs of Sections, was that
5 of an aide to the Navy Minister within the Imperial
6 Headquarters; however, so far as I am aware neither
7 I nor OKA, as Director of Naval Affairs Bureau, ever
8 attended any of the conferences of the Imperial
9 Headquarters during my tenure of office.

10 "In early August, 1941, when we were told
11 by Prince KONOYE about intentions of a direct con-
12 ference with President Roosevelt, we attached great
13 expectations to it. We requisitioned the merchant
14 ship Nitta Maru for that purpose and completed all
15 preparations. Because of his intense interest in
16 the negotiations, I had unofficially selected Keijun
17 OKA as one of the Naval attendants to the suite of
18 Prince KONOYE.

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1. "Even after October came, U.S.-Japanese
2 negotiations did not make the progress which we had
3 expected and according to the 'Outlines on Accomplish-
4 ment of the Empires's National Policy,' which was
5 approved at the Imperial Conference of 6 September
6 we had to decide our attitude towards the continuation
7 of the United States-Japanese negotiations. Needless
8 to say the Navy did all it could to avoid war with
9 the United States. And this sentiment among naval
10 circles was communicated to Premier KONOYE. In the
11 midst of such cricumstances, the reasons for entrusting
12 the decision as to whether or not we should continue
13 negotiations to the Prime Minister was because I
14 considered the following: namely.

15 "It was my opinion that if the Navy made
16 a public announcement that it 'lacked confidence
17 in fighting the United States,' it would lead to
18 (create) the disruption of national opinions, cause
19 the pitting of the Army against the Navy and consequent-
20 ly develop into a grave internal problem. As the
21 Prime Minister, too, was of exactly the same opinion
22 as the Navy, and this problem, moreover, had an
23 important bearing on the overall national strength
24 and hence should not be dogmatically concluded solely
25 on the basis of the Navy's standpoint.

1 "When OKA stated to Kenji TOMITA, then the
2 Chief Secretary of the Cabinet, in answer to an
3 inquiry from MUTO that the Navy could not state that
4 it could not fight he was conveying the intention
5 expressed by me as Navy Minister. I had previously
6 informed TOJO that the greatest work confronting
7 Japan at the moment was the termination of the China
8 Affair, and that I could not make public the fact
9 that the Army and Navy had opposing views thereon,
10 and that we ought first to let Prime Minister KONOYE
11 decide and then abide by this decision. It
12 is incontrovertible that at that time OKA was my
13 subordinate and was in no position to make any
14 decision on his own authority as to whether or not
15 the Navy could wage war. I had many conversations
16 with OKA concerning the Japanese-American negotiations,
17 and he expressed himself strongly in favor of continuing
18 such negotiations. At the time of my resignation as
19 Navy Minister, OKA remained as Director of Naval
20 Affairs Bureau due to the fact that his term of shore
21 service, which was ordinarily fixed at two years,
22 and the term of office of both the Vice-Minister of
23 Navy and Director of Naval Affairs Bureau had another
24 year to run. OKA tendered his resignation, but since
25 his term of office had not yet expired, such a

1 "When OKA stated to Kenji TOMITA, then the
2 Chief Secretary of the Cabinet, in answer to an
3 inquiry from MUTO that the Navy could not state that
4 it could not fight he was conveying the intention
5 expressed by me as Navy Minister. I had previously
6 informed TOJO that the greatest work confronting
7 Japan at the moment was the termination of the China
8 Affair, and that I could not make public the fact
9 that the Army and Navy had opposing views thereon,
10 and that we ought first to let Prime Minister KONOYE
11 decide and then abide by this decision. It
12 is incontrovertible that at that time OKA was my
13 subordinate and was in no position to make any
14 decision on his own authority as to whether or not
15 the Navy could wage war. I had many conversations
16 with OKA concerning the Japanese-American negotiations,
17 and he expressed himself strongly in favor of continuing
18 such negotiations. At the time of my resignation as
19 Navy Minister, OKA remained as Director of Naval
20 Affairs Bureau due to the fact that his term of shore
21 service, which was ordinarily fixed at two years,
22 and the term of office of both the Vice-Minister of
23 Navy and Director of Naval Affairs Bureau had another
24 year to run. OKA tendered his resignation, but since
25 his term of office had not yet expired, such a

1 request was denied, and I told OKA that he and the
2 Vice-Minister should remain in the Navy Ministry
3 and continue to do everything in their power to
4 bring about a compromise in the American-Japanese
5 negotiations.

6 "In the Navy it was customary when a new
7 Minister was appointed not to shift those below the
8 Vice-Minister, therefore, regardless of whoever the
9 Prime Minister might have been then, personnel below
10 the rank of Vice-Minister were not affected thereby."

11 Other counsel have questions to ask on
12 direct.

13 ACTING PRESIDENT: Mr. Logan.

14 MR. LOGAN: If the Tribunal please, I would
15 like to ask a few questions on behalf of the accused
16 KIDO.

17 DIRECT EXAMINATION (Continued)

18 BY MR. LOGAN:

19 Q Admiral, do you recall it to be a fact that
20 the Emperor on or about the 17th day of October, 1941,
21 after the resignation of the KONOYE Cabinet, told you,
22 in substance, that cooperation between the Army and
23 Navy should be made closer than ever before?
2

25 A I remember that.

Q And is it not a fact that when you withdrew

1 request was denied, and I told OKA that he and the
2 Vice-Minister should remain in the Navy Ministry
3 and continue to do everything in their power to
4 bring about a compromise in the American-Japanese
5 negotiations.

6 "In the Navy it was customary when a new
7 Minister was appointed not to shift those below the
8 Vice-Minister, therefore, regardless of whoever the
9 Prime Minister might have been then, personnel below
10 the rank of Vice-Minister were not affected thereby."

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12 direct.

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15 like to ask a few questions on behalf of the accused
16 KIDO.

17 DIRECT EXAMINATION (Continued)

18 BY MR. LOGAN:

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20 the Emperor on or about the 17th day of October, 1941,
21 after the resignation of the KONOYE Cabinet, told you,
22 in substance, that cooperation between the Army and
23 Navy should be made closer than ever before?
24

25 A I remember that.

Q And is it not a fact that when you withdrew

1 from the audience before the Emperor that KIDO, Lord
2 Keeper of the Privy Seal, told you, in part, that he
3 had presumed that you had just received Imperial
4 words in regard to cooperation between the Army and
5 the Navy?

6 A Yes, he did.

7 Q Now, what did you understand or interpret
8 those words to mean?

9 A I interpreted the Emperor's words to mean
10 that both the Army and the Navy should reject all
11 obstacles which hitherto had presented themselves
12 and which might tend to make impossible the further
13 continuance of Japan-American negotiations, and from
14 a new and impartial standpoint confer with each other
15 for the purpose of striving to solve the situation
16 peacefully. This was because the Emperor had always
17 earnestly desired for the peaceful solution of the
18 situation.

19 Q Now, Admiral, when you withdrew from the
20 audience of the Emperor, I understand that you and
21 General TOJO were seated alone in the room waiting
22 for KIDO to come in and that you had a conversation
23 with General TOJO at that time. What was that
24 conversation?
25

A I have forgotten the details of our

1 from the audience before the Emperor that KIDO, Lord
2 Keeper of the Privy Seal, told you, in part, that he
3 had presumed that you had just received Imperial
4 words in regard to cooperation between the Army and
5 the Navy?

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8 those words to mean?

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12 and which might tend to make impossible the further
13 continuance of Japan-American negotiations, and from
14 a new and impartial standpoint confer with each other
15 for the purpose of striving to solve the situation
16 peacefully. This was because the Emperor had always
17 earnestly desired for the peaceful solution of the
18 situation.

19 Q Now, Admiral, when you withdrew from the
20 audience of the Emperor, I understand that you and
21 General TOJO were seated alone in the room waiting
22 for KIDO to come in and that you had a conversation
23 with General TOJO at that time. What was that
24 conversation?
25

A I have forgotten the details of our

1 conversation. The general outline was as follows:

2 I talked with TOJO in an effort to ascertain
3 his true -- the firmness of his resolution to throw
4 away all obstacles which had been obstructing our
5 path in the past to wipe the slate clean and to start
6 out afresh in line with the words which I have just
7 received from the Emperor.

8 Q What else did he say? Did he say that he
9 would do that?

10 A I received the impression that TOJO did have
11 a strong resolve to carry that out.

12 Q Now, Admiral, did KIDO or any one on his
13 behalf ever speak to you and suggest that SHIMADA be
14 appointed Navy Minister?

15 A No, nothing of the kind happened.

16 Q Was SHIMADA appointed Navy Minister at the
17 request of General TOJO or any one on his behalf?

18 A That also did not happen.

19 Q What were the circumstances surrounding the
20 appointment of Navy Minister SHIMADA?

21 A I myself felt that SHIMADA would be the most
22 appropriate person to take charge of the Navy Ministry
23 and to help solve the situation, and did my utmost
24 to persuade SHIMADA to accept the post. Other Navy
25 leaders also felt the same way as I did.

1 Q Did any one outside of the Navy Ministry or
2 Naval circles bring any pressure whatsoever to bear
3 with respect to the appointment of Admiral SHIMADA
4 as Navy Minister?

5 CAPTAIN ROBINSON: Just a minute, if the
6 Court please.

7 ACTING PRESIDENT: Captain Robinson.

8 A No.

9 CAPTAIN ROBINSON: The prosecution objects
10 to that question, if the Court please, on the ground
11 that it calls for a very wide conclusion on the part
12 of the witness. It is a bit difficult to understand
13 just whether this is cross-examination or direct
14 examination of the defense' own witness, but I believe
15 that objection is appropriate under the circumstances
16 as I understand it--

17 THE MONITOR: Just before Captain Robinson
18 spoke up, the witness replied "No, never."

19 CAPTAIN ROBINSON: (Continuing) -- and that
20 the answer therefore should be stricken out as well
21 as the question disallowed.
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1 MR. LOGAN: If the Tribunal please, the form of
2 the question is, in my submission, perfectly all right,
3 and it is asked for the purpose of combatting the
4 prosecution's contention that KIDO, and I quote the
5 prosecution's contention: "...induced the Emperor to
6 give, or gave in the Emperor's name, an instruction to
7 the Navy which could only mean that they should appoint
8 a Navy Minister who would do whatever TOJO told them,"
9 and for that purpose I am asking that question.

10 This witness is the one who perhaps had the most
11 to do with the appointment of SHIMADA, and he certainly
12 would be the proper party to answer that question.
13 And of course there is implied in the question that I am
14 asking him of his own knowledge.
15

16 MR. BRANNON: Mr. President, I am vitally con-
17 cerned with this question because I represent the
18 accused SHIMADA.

19 ACTING PRESIDENT: Are you objecting to the
20 question?

21 MR. BRANNON: I am merely stating some infor-
22 mation to the Tribunal that may assist them in ruling
23 on this.

24 ACTING PRESIDENT: I asked if you were making
25 an objection.

MR. BRANNON: No, I am not, but the Tribunal

may be interested in what I am going to say.

1 In the individual defense --

2 ACTING PRESIDENT: It seems to me that under
3 our rules you are not entitled to be heard on that basis.

4 MR. BRANNON: I know of no rule that forbids me
5 from making a statement to the Tribunal, especially if
6 I consider it as a guide to them in making a ruling.

7 ACTING PRESIDENT: It makes two counsel arguing
8 against the objection.

9 MR. BRANNON: Well, if the Tribunal please, in
10 the individual defense of the accused SHIMADA this ques-
11 tion will be fully covered.

12 ACTING PRESIDENT: Before you make any further
13 statement, let me get the sentiment of the Tribunal.

14 The majority will hear you.

15 MR. BRANNON: This is a double-barreled issue
16 in that it affects both KIDO and SHIMADA. This witness
17 is the only man who can answer the question. Therefore,
18 anticipating the defense of Admiral SHIMADA, I have pre-
19 pared an affidavit which touches only on the appoint-
20 ment of SHIMADA and this witness' connection therewith.
21 Since the accused KIDO is equally concerned, I am in no
22 position either to object or to confirm the question
23 that Mr. Logan asked, but merely to inform the Tribunal
24 that the point will be covered in some detail in the
25

1 individual defense of Admiral SHIMADA.

2 MR. LOGAN: I have no desire, if the Tribunal
3 please, to interfere with the defense of SHIMADA, but
4 I feel that while this witness is on the stand I should
5 be permitted to ask this question in case anything hap-
6 pened to him between now and when the time comes for
7 SHIMADA to present his defense. I might add it is the
8 last question I intend to ask this witness.

9 ACTING PRESIDENT: Will the court reporter
10 read the question, please?

11 (Whereupon, the last question was
12 read by the official court reporter.)

13 A No.

14 CAPTAIN ROBINSON: If the Court please, I be-
15 lieve that counsel did modify the question by saying,
16 "so far as your personal knowledge goes." And the
17 answer of the witness was "Yes," as I understand it?

18 MR. ROBERTS: No, it was "No."

19 ACTING PRESIDENT: What is the answer, Mr.
20 Reporter?

21 COURT REPORTER: The answer was "No."

22 MR. ROBERTS: You may cross-examine.

23 ACTING PRESIDENT: Captain Robinson.

24 CAPTAIN ROBINSON: If the Court please.
25

CROSS-EXAMINATION

1
2 BY CAPTAIN ROBINSON:

3 Q Mr. Witness, your tenure of office as Navy
4 Minister, during the time while the defendant OKA was
5 Director of the Naval Affairs Bureau, lasted less than
6 three months, did it not?

7 A I am not able to recollect just how many months
8 it was.

9 Q Well, in your affidavit you state it was from
10 18 July to 16 October 1941. Is that not correct? There-
11 fore, your tenure expired before General TOJO took office,
12 keeping the defendant OKA as Chief of the Naval Affairs
13 Bureau until the TOJO Cabinet fell in 1944, is that not
14 correct?

15 A Yes, as you say.

16 Q At page 5 of your affidavit you state that the
17 reason why the defendant OKA remained as Director of the
18 Naval Affairs Bureau in the TOJO Cabinet was that, and
19 I quote your words, "His term of shore service which was
20 ordinarily fixed at two years" had another year to run.

21 Now, as a matter of fact, was it not true that
22 Admiral OKA spent more than ten of the fourteen years
23 preceding 1945 ashore in Navy Headquarters?
24

25 A The previous -- OKA's previous long term of
shore service was in consideration of his health. I did

CROSS-EXAMINATION

BY CAPTAIN ROBINSON:

Q Mr. Witness, your tenure of office as Navy Minister, during the time while the defendant OKA was Director of the Naval Affairs Bureau, lasted less than three months, did it not?

A I am not able to recollect just how many months it was.

Q Well, in your affidavit you state it was from 18 July to 16 October 1941. Is that not correct? Therefore, your tenure expired before General TOJO took office, keeping the defendant OKA as Chief of the Naval Affairs Bureau until the TOJO Cabinet fell in 1944, is that not correct?

A Yes, as you say.

Q At page 5 of your affidavit you state that the reason why the defendant OKA remained as Director of the Naval Affairs Bureau in the TOJO Cabinet was that, and I quote your words, "His term of shore service which was ordinarily fixed at two years" had another year to run.

Now, as a matter of fact, was it not true that Admiral OKA spent more than ten of the fourteen years preceding 1945 ashore in Navy Headquarters?

A The previous -- OKA's previous long term of shore service was in consideration of his health. I did

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1 not mean by my affidavit that every person in the navy
2 spent alternately two years at sea and then two years
3 on land. Therefore, when I stated that OKA still had
4 more than one year to remain as Chief of the Naval
5 Affairs Bureau, i meant that in the ordinary course of
6 events OKA's term of service as Chief of the Naval
7 Affairs Bureau should run for at least one year more.

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1 Q Very well. Now, on page 3, the middle
2 paragraph of your affidavit, you state that Admiral
3 OKA, as Director of the Naval Affairs Bureau, did
4 not attend any of the cabinet meetings. Do you base
5 that statement on your own personal knowledge, or
6 if not, what is the source of your information?

7 A I made that statement because I myself attend-
8 ed the cabinet meetings and also because, even speak-
9 ing from the point of view of OKA's position as
10 Director of the Naval Affairs Bureau, that position
11 did not entitle him to sit at cabinet meetings.

12 Q That is, you did not attend all cabinet meet-
13 ings that were held during the time when OKA was
14 Director of the Naval Affairs Bureau, did you?

15 A Of course it is as you say. But the govern-
16 ment structure of Japan was such that the Director
17 of the Naval Affairs Bureau could not attend cabinet
18 meetings, and I have never heard of any instance
19 where such a director did attend. Therefore I am
20 able to say with conviction that OKA never attended
21 any cabinet meetings.

22 Q But not from personal knowledge?

23 A My knowledge and from the regulations.

24 Q Now, in regard to Liaison Conferences, you
25 speak of Liaison Conferences at the middle of page 2

1 of your affidavit and describe OKA's position and
2 participation in Liaison Conferences.

3 You never attended Liaison Conferences, did
4 you?

5 A I don't know to what Liaison Conferences you
6 are referring to. I understand your question to refer
7 to the Liaison Conferences which were held between the
8 government and the Supreme Command, and I make my
9 reply accordingly. To these conferences the Navy
10 Minister always --

11 THE INTERPRETER: Correction: The Navy
12 Minister always attended these conferences.

13 Q Therefore your statement is limited to the
14 three months during which you were Navy Minister
15 while OKA was Director of the Naval Affairs Bureau,
16 that is, in the TOJO administration?

17 MR. ROBERTS: May I correct the impression?
18 The witness's affidavit says he was appointed in the
19 third KONOYE Cabinet on July 18, 1941, but I believe
20 he will also tell this Tribunal that he was likewise
21 Navy Minister in the second KONOYE Cabinet, dating
22 back to September, 1940.

23 ACTING PRESIDENT: We don't need these
24 interruptions and explanations unless you are making
25 an objection.

1 navy could have prevented the war?

2 A That is the opinion of Marquis KIDO and of
3 Prince KONOYE, I suppose. I can say nothing about
4 that. I don't know anything about their opinions.

5 CAPTAIN ROBINSON: That is all.

6 REDIRECT EXAMINATION

7 BY MR. ROBERTS:

8 Q Admiral, did you also serve as Navy Minister
9 in the second KONOYE Cabinet?

10 A Yes, I did.

11 Q From what date?

12 A I cannot recall the exact date. The best I
13 can remember is that it was around September or
14 October of 1940.

15 Q So that OKA served under you for approximate-
16 ly one year, is that not correct?

17 A Yes, that is so.

18 MR. ROBERTS: May the witness be excused on
19 the usual terms?

20 ACTING PRESIDENT: He is excused accordingly.

21 (Thereupon, the witness was excused.)

22 MR. ROBERTS: We call as our next witness
23 NOMURA. Naokuni.
24
25

1 N A O K U N I N O M U R A, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 ACTING PRESIDENT: You are reminded that
6 you are still on your former oath, Witness:

7 DIRECT EXAMINATION

8 BY MR. ROBERTS:

9 Q Please state your name and address.

10 A My name is NOMURA, Naokuni. My address is
11 1 2-chome. Setagaya-ku, Tokyo.

12 MR. ROBERTS: May the witness be shown
13 defense document 1780?

14 (Whereupon, a document was handed
15 to the witness.)

16 Q Please examine this document and tell us
17 whether or not it is your sworn affidavit.

18 A This is my affidavit.

19 Q Are the contents therein correct and true?

20 A They are true and correct.

21 MR. ROBERTS: I offer in evidence defense
22 document No. 1780.

23 ACTING PRESIDENT: The document will be
24 admitted.

25 CLERK OF THE COURT: Defense document 1780

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will receive exhibit No. 3471.

(Thereupon, the document above
referred to was marked defense exhibit 3471
and received in evidence.)

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1 MR. ROBERTS: I read exhibit No. 3471,
2 omitting the formal parts:

3 "I am a former Admiral of the Navy. On
4 July 17, 1944, I replaced Navy Minister Admiral
5 Shigetaro SHIMADA and assumed the portfolio of Navy
6 Minister. At that time OKA, Takazumi was Director of
7 Naval Affairs Bureau.

8 "On July 16, 1944, before I entered the
9 Cabinet, I had an interview with Prime Minister TOJO.
10 He asked my opinion so I expressed the desire that
11 someone from among the former premiers, for instance,
12 such as Admiral YONAI, should be requested to enter
13 the Cabinet in order to strengthen the Cabinet.

14 "On the 17th Premier TOJO sent a messenger
15 to me and requested me to urge Admiral YONAI to enter
16 the Cabinet. I understood that the foregoing request
17 of the Prime Minister was based on my interview had
18 with Premier TOJO on the 16th. I immediately dis-
19 patched OKA, on my behalf, to Admiral YONAI to convey
20 the Prime Minister's message.

21 "In about an hour OKA returned and stated
22 that Admiral YONAI did not wish to enter the Cabinet.
23 OKA reported that Admiral YONAI desired to remain free
24 from the Cabinet, but that he would be willing to
25 resume active service and serve as a member of the

1 Supreme War Council. Thereupon, I personally called
2 on Admiral YONAI and discussed the foregoing matter.

3 "In light of the foregoing it is clear that
4 the idea of asking Admiral YONAI to enter the Cabinet
5 was solely my idea, and that OKA acted upon my orders.

6 "With respect to such a matter the Director
7 of Naval Affairs Bureau is subject to the orders of
8 the Navy Minister, and cannot act independently of
9 his own free will."

10 You may cross-examine.

11 ACTING PRESIDENT: Captain Robinson.

12 CROSS-EXAMINATION

13 BY CAPTAIN ROBINSON:

14 Q Admiral, you were the Japanese naval repre-
15 sentative at Berlin while the defendant, General
16 OSHIMA, was the Japanese Ambassador to Berlin?

17 A Yes.

18 Q And you were also the Japanese Commissioner
19 at Berlin on the German-Italian-Japanese Military
20 Commission under the Tri-Partite Pact from 1940 until
21 1943, is that not correct?

22 A Yes.

23 Q In your earlier career in the Navy you were
24 particularly interested in the submarine service, were
25 you not?

1 A I have served in connection with submarines.

2 Q Is it not true, Admiral, that both you and
3 Admiral OKA had specialized in the Japanese Navy
4 Submarine Service?

5 A I don't think you could say I was an expert
6 in regard to submarines but I have served as staff
7 officer of a submarine squadron.

8 Q And both you and the defendant OKA had been
9 instructors in submarine schools?

10 A For one year I was president -- I was
11 principal of the submarine school.

12 Q And OKA, likewise, had served in connection
13 with Japanese submarine schools, is that not correct?

14 A That is my understanding.

15 Q Another common interest which you shared
16 with Admiral OKA was an interest in politics, was it
17 not?

18 A The only time I have ever been together with
19 OKA politically speaking was when I became Navy
20 Minister.
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1 Q On page 1 of your affidavit, Mr. Witness,
2 you state that on or about 17 July, 1941 you sent
3 Admiral OKA to see Admiral YONAI to advise him that
4 General TOJO desired that YONAI join the TOJO Cabinet,
5 and you say that about an hour later Admiral OKA re-
6 turned and reported to you the results of his mission.

7 ACTING PRESIDENT: I understood you to say
8 1941. I believe you mean 1944.

9 CAPTAIN ROBINSON: 1944.

10 Q (Continuing) Then the question is, Mr.
11 Witness, in other words, when you had a political
12 mission on the highest level in Tokyo, you called on
13 Admiral OKA to do it for you, didn't you?

14 A When I received this message from General
15 TOJO, I was talking with someone else; I was occu-
16 pied. And, therefore, for the time being I sent
17 OKA in my stead.

18 Q Admiral OKA did not object to the assign-
19 ment, did he?

20 A No, he didn't.

21 Q Both you and Admiral OKA favored a strong
22 single political party in Japan such as the IRAA, did
23 you not?

24 A For the five years previous to my appoint-
25 ment as Navy Minister I had not been in Tokyo at all;

1 and, when I received an urgent telegram calling me
2 to Tokyo, I had no knowledge of the situation in
3 Tokyo.

4 Q However, during that period while you were
5 in Germany you kept in touch with the Nazi Party and
6 its leaders, did you not?

7 A I was not in contact with them. Whenever a
8 telegram came from Tokyo, my duty was to transmit
9 it to them.

10 Q When Admiral Doenitz granted permission to
11 you to return to Japan by submarine, he also provided
12 that the new group leader of the Nazi Party's foreign
13 division for Japan should accompany you on the same
14 submarine, did he not?

15 A My understanding was that we were merely
16 fellow passengers on the same submarine.

17 Q What was the name of that group leader?

18 A He was called Spahn.

19 Q And upon his arrival in Japan, did he ad-
20 vise you and OKA and others in regard to methods of
21 making the IRRA as strong as the Nazi Party in Ger-
22 many?
23 any?

24 A I never talked even once either with OKA
25 or with Spahn on such matters.

CAPTAIN ROBINSON: That's all, Mr. Witness.

1 REDIRECT EXAMINATION

2 BY MR. ROBERTS:

3 Q Admiral, in your knowledge, did OKA ever
4 engage in politics?5 A I had met OKA from time to time since the
6 days when he served on a submarine, but I have never
7 felt that OKA was a man who went ahead and did things
8 on his own other than those matters on which he had
9 received orders.10 MR. ROBERTS: May the witness be excused
11 on the usual terms?12 ACTING PRESIDENT: He will be excused
13 accordingly.14 (Whereupon, the witness was
15 excused.)

16 We will recess for fifteen minutes.

17 (Whereupon, at 1045, a recess was
18 taken until 1100, after which the proceed-
19 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Roberts.

4 MR. ROBERTS: At this time we call the witness
5 TAKATA, Toshitane.

6 MARSHAL OF THE COURT: Mr. President, the
7 witness TAKATA is in court. He has previously testi-
8 fied before this Tribunal.

9 ACTING PRESIDENT: You are reminded that you
10 are still under your former oath.

11 - - -

12 T O S H I T A N E T A K A T A, recalled as a witness
13 on behalf of the defense, having been previously
14 sworn, testified through Japanese interpreters as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. ROBERTS:

18 Q Please state your name and address.

19 A My name is TAKATA, Toshitane. My address is
20 955 1-chome, Tamagawa, Naka-machi, Setagaya-ku, Tokyo.

21 MR. ROBERTS: May the witness be shown defense
22 document No. 2691

23 (Whereupon, a document was handed to
24 the witness.)

25 Q Please examine this document and tell us whether

1 or not it is your sworn affidavit.

2 A This is my affidavit.

3 Q Are the contents therein true and correct?

4 A Yes.

5 MR. ROBERTS: I offer in evidence defense
6 document No. 2691.

7 ACTING PRESIDENT: The document will be admitted
8 in evidence.

9 CLERK OF THE COURT: Defense document 2691
10 will receive exhibit No. 3472.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit No. 3472
13 and received in evidence.)

14 MR. ROBERTS: I read exhibit No. 3472, omitting
15 the formal parts:

16 "I was formerly Rear Admiral of the Navy. From
17 July 1, 1935 to November 15, 1937, I was on the staff
18 of Section One, Naval Affairs Bureau, and had charge
19 of naval organization and personnel. Then from
20 November 15, 1940 to July 14, 1942, I assumed the post
21 of Chief of Section One, Naval Affairs Bureau, and had
22 charge of matters relating to armaments and military
23 administration. During this period the Director of
24 Naval Affairs Bureau was Oki, Takazumi and I was one of
25 his subordinates.

1 or not it is your sworn affidavit.

2 A This is my affidavit.

3 Q Are the contents therein true and correct?

4 A Yes.

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17 July 1, 1935 to November 15, 1937, I was on the staff
18 of Section One, Naval Affairs Bureau, and had charge
19 of naval organization and personnel. Then from
20 November 15, 1940 to July 14, 1942, I assumed the post
21 of Chief of Section One, Naval Affairs Bureau, and had
22 charge of matters relating to armaments and military
23 administration. During this period the Director of
24 Naval Affairs Bureau was OMA, Takazumi and I was one of
25 his subordinates.

1 "OKA exerted his efforts to the best of his
2 ability with the idea of avoiding war with the United
3 States. He expressed himself as being constantly
4 worried because the American-Japanese negotiations
5 could not be concluded. I recollect that it was in
6 early August 1941 that he was in a very happy mood after
7 he had returned to his office. He called me in a loud
8 voice. When I went up to him he stated: 'The Govern-
9 ment wants to commandeer one steamer secretly, have
10 you any good ideas?'

11 "Anything happened?' I asked him.

12 "This matter cannot be made public yet, but
13 Premier KONOYE is strongly determined to go out to meet
14 the President of the United States and have direct nego-
15 tiations with him,' OKA said.

16 "Then I replied, 'The matter might leak out if
17 the Cabinet were to hire the steamer, or if an order
18 were issued to Nippon Yusen Kaisha, so it would be better
19 to make it appear that the Navy has commandeered the
20 steamer for use in the China Incident, and for the
21 Cabinet to make the necessary disposition of the ex-
22 penses involved.'

23 "The next day OKA ordered me 'to prepare the
24 steamer which was discussed yesterday,' and as a result
25 of my contact with the people connected with the

TAKATA.

DIRECT

33,367

1 commanding of ships, the Nitta Maru of the Nippon
2 Yusen Kaisha was commandeered. The Nitta Maru was
3 routed to Yokosuka Naval Base, and then several wire-
4 less telegraphy sets and technicians from the Naval Base
5 were put on board the steamer which returned to Yokohama.
6 These wireless telegraphy sets were installed and the
7 steamer stood ready to sail at a moment's notice. More
8 than ten telegraphy personnel including some highly
9 capable men chosen from among the instructors at the
10 Naval Telegraph School were billeted at the Yokosuka
11 Naval barracks ready to board the Nitta Maru immediately
12 when any order for her departure was announced. When
13 the head of the Bureau of Education raised the question
14 that the singling out of these capable instructors would
15 disrupt the training of the Navy's telegraph operators,
16 OKA disposed of the objection saying that it was necessary
17 to prepare such personnel for the Nitta Maru since he
18 felt that the policy of a successful conclusion of the
19 American-Japanese negotiations was a vital matter. Dur-
20 ing the entire period that I served under OKA, I have
21 never seen such an expression of happiness shown upon
22 his face as at the time when he ordered me to make pre-
23 parations for the Nitta Maru, and cannot forget his
24 excited countenance as he announced that Premier KONOYE
25 has decided to go and see President Roosevelt.

TAKITA

DIRECT

33,368

1 "The Witta Maru was moored in Yokohama Harbor
2 and remained there until after the outbreak of war.
3 The removal of the additional wireless apparatus which
4 had been installed, and the assumption of her duties
5 as the Navy's commandeered steamer actually commenced
6 after the war with the United States.

7 "With respect to the difficult point in the
8 American-Japanese negotiations involving the question
9 of the withdrawal of troops from China, OKA stated that
10 he favored their withdrawal so that the China Incident
11 would be settled promptly that Japan should not plunge
12 into war with the United States, and he exerted his best
13 efforts to avoid such war. While the American-Japanese
14 negotiations were going on and if they took a favorable
15 turn, even slightly, OKA's face brightened. On the
16 contrary, if they took an unfavorable turn, his expres-
17 sion became very sad, he was unhappy and hardly spoke.
18 I remarked to someone, 'We can tell the turn of events
19 in the American-Japanese negotiations by watching OKA's
20 face.'

22 "In January 1941, when a lecture meeting
23 sponsored by the Chuo Bukka Kyoryoku Kaigi (Central
24 Prices Cooperative Council) attended by several hundreds
25 of influential people, was held in the Bar Association
Building, the sponsors requested Director OKA to

1 express the Navy's views. Director OKA, after obtain-
2 ing permission from his superiors, dispatched me as his
3 representative to give the lecture. It was OKA's idea
4 that the development of the State should be along peace-
5 ful, economic lines and the policy of the State should
6 be peaceful. Therefore, he instructed me to deliver
7 the lecture along these lines and I did so, as my
8 personal opinion coincided with his. I expressed the
9 feeling that the object of the Navy was not only to wage
10 war but was primarily important for providing a back-
11 ground for the development of a merchant fleet."

12 I have an additional question to ask this
13 witness.

14 BY MR. ROBERTS (Continued):

15 Q Mr. TAKATA, have you testified previously
16 in this Tribunal in detail concerning the authority of
17 the Navy Minister over prisoners of war?

18 A I testified on that point on the second of
19 September before this Tribunal -- second of September
20 this year.

21 MR. ROBERTS: I respectfully refer this Tribunal
22 to exhibit 3065 contained in record pages 27,354 to
23 page 27,370.

24 Q Mr. TAKATA, is there any specific provision
25 in the Imperial Ordinance relating to the organization

1 of the Ministry of the Navy which fixes the responsi-
2 bility over prisoners of war?

3 a There is no regulation clarifying that point
4 in Navy Regulations -- in regulations of the Navy
5 Ministry.

6 MR. ROBERTS: at this time I again refer the
7 Tribunal to exhibit 3055 which is Regulations for Treat-
8 ment of Prisoners of War by the Navy Ministry.

9 ACTING PRESIDENT: Captain Robinson.

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CROSS-EXAMINATION

1 BY CAPTAIN ROBINSON:

2 Q Admiral TAKATA, when you testified here on
3 2 September 1947 you testified that Section 1 of the
4 Naval Affairs Bureau after December 8, 1941 was the
5 section in the Navy Ministry that handled matters per-
6 taining to prisoners of war, is that not correct?
7

8 A I don't think I said after September 4 --
9 did I say after September 1941?

10 Q December.

11 A I testified that although the Navy Ministry
12 regulations contained no allusion to prisoners of war,
13 nor is there any reference to prisoners of war in the
14 business regulations of the Navy Ministry since matters
15 pertaining to prisoners of war belong to matters rela-
16 ting to general naval administration, prisoner of war
17 affairs came under the jurisdiction of the first sec-
18 tion of the Naval Affairs Bureau.

19 Q That answer then is yes?

20 A Yes.

21 Q Did you not testify at that time also that
22 Section 1 handled liaison work within Japan in connec-
23 tion with prisoners of war, and that Section 2 handled
24 matters relating to international points affecting
25 prisoners of war?

1 A I said that Section 2 served as a sort of
2 clearing house for matters concerning relations --
3 international relations regarding prisoners of war.

4 In regard to the other points, it is as you
5 have just said.

6 Q Now, in your present affidavit at page 3,
7 middle paragraph, you speak of the Nitta Maru, stating,
8 and I quote your words: "The assumption of her duties
9 as the Navy's commandeered steamer actually commenced
10 after the war with the United States."

11 A Yes.

12 Q Under the arrangement which you have stated,
13 and under the plan by which the Navy Ministry assumed
14 control over prisoners of war, did the Navy Ministry
15 have the responsibility for delivering the prisoners
16 to the Army?

17 A I cannot clearly understand you.

18 Q Let me state the question again. I will re-
19 phrase the question. Drawing your attention to the use
20 of the Nitta Maru as a prisoner of war transport and
21 specifically to a voyage in January 1942 from Wake to
22 Shanghai, who was in charge of the prisoners of war
23 aboard the Nitta Maru and responsible for their safety
24 so far as the Navy Ministry was concerned?
25

MR. ROBERTS: I object on the ground that

1 this question is outside the scope of the affidavit.
2 The witness covered this question fully in the exhibit
3 which I referred to in his previous testimony, a matter
4 properly within the general phase.

5 CAPTAIN ROBINSON: Does the Court wish to
6 hear me on that further?

7 ACTING PRESIDENT: The Tribunal would like to
8 hear you.

9 CAPTAIN ROBINSON: In this affidavit the wit-
10 ness points out that the defendant OKA was responsible
11 for the Nitta Maru having been brought into the service
12 of the Navy Ministry. Then in the lines which I have
13 quoted the witness proceeds to say that her -- that the
14 Nitta Maru's duties as a commandeered steamer actually
15 commenced after the war with the United States.
16

17 Now, following up that connection, if the
18 Court please, it appears that it may be appropriate
19 here to determine whether or not evidence already
20 before this Tribunal may not be supplemented by showing
21 the continuation of the service of the Nitta Maru and
22 the responsibility for this trip that has come into
23 evidence.

24 MR. ROBERTS: I submit, if the Court please,
25 there is no connection between the two incidents, and
the fact that the Navy had commandeered this ship for

1 other purposes is not connected with the purpose men-
2 tioned in this affidavit.

3 ACTING PRESIDENT: By a majority, the objec-
4 tion is sustained.

5 CAPTAIN ROBINSON: Two brief questions, then
6 that will conclude this subject.

7 Q As the officer in charge of Section 1, did
8 you get a report of the passengers who were placed
9 aboard the Nitta Maru at Wake in January 1942 for
10 transportation to Shanghai?

11 MR. ROBERTS: I make the same objection as I
12 made to the previous question.

13 ACTING PRESIDENT: The same objection applies
14 here. The objection is sustained.

15 CAPTAIN ROBINSON: Very well, your Honor.

16 That concludes the cross-examination.

17 MR. ROBERTS: May the witness be excused
18 upon the usual terms?

19 ACTING PRESIDENT: The witness is excused ac-
20 cordingly.

21 (Whereupon, the witness was excused.)

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1 MR. ROBERTS: At this time I desire to read
2 several excerpts from exhibit 2866 and exhibit 2913
3 which have not been read.

4 Exhibit 2866, the last paragraph on page 1:

5 "This proposal for understanding was to
6 announce, in the form of a joint declaration, an
7 agreement between the two governments on several fun-
8 damental items necessary for breaking the deadlock
9 between the two countries. Detailed agreements were to
10 be arranged by a Japanese-American conference to fol-
11 low the joint declaration.

12 "In view of the importance of the matter,
13 I summoned a joint conference of high government and
14 military leaders for 8 o'clock that very night.

15 "The Government was represented by the Premier,
16 the Home Minister, the War and Navy Ministers and also
17 by Mr. OHASHI, Vice-Minister of Foreign Affairs. The
18 Chiefs of the Army and Naval General Staffs represented
19 the Supreme Command. Also present were the Directors
20 of the Military Affairs Bureaus of the War and Navy
21 Ministries, and the Chief Cabinet Secretary."
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1 Skipping to page 3, third paragraph:

2 "There was no denying, however, that despite
3 his outward demeanor, the Foreign Minister was giving
4 concentrated thought to the handling of the problems
5 then pending between America and Japan. It was
6 learned later that on his sickbed MATSUOKA had been
7 closely examining both the text of the American pro-
8 posal and the revision of the same which had been
9 drawn up by the appropriate authorities of the army,
10 navy, and foreign ministries. In addition, he was
11 also thoroughly revising the latter."

12 I skip to page 4, next to the last paragraph:

13 "Deliberations on the Japanese-American
14 Proposal for Understanding thus began again. Joint
15 conferences were held on July 10 and 12, which con-
16 sidered the American proposal of June 21."

17 Skipping now to page 6, second paragraph:

18 "It should be noted particularly that the
19 army and navy ministers remained in office, and that
20 the important post of Foreign Minister was occupied by
21 a representative of the navy, which was most concerned
22 with the American question, and hence had a signifi-
23 cant voice in the matter. The cabinet was given the
24 additional privilege of holding joint conferences with
25 the Supreme Command in the Imperial Palace. and

1 launched immediately upon the attainment of its
2 objectives, the solution of Japanese-American
3 problems."

4 Skipping the next paragraph, going to the
5 fourth paragraph:

6 "The previous cabinet in its last days had
7 drawn up with great pains a Japanese counter-proposal
8 to the American proposal of June 21, and on July 25
9 had dispatched it by cable. In spite of this, the
10 Embassy at Washington had not yet presented it to
11 the Americans, first because of the change in cabinets;
12 second, because of fear that its contents might not
13 be acceptable to the Americans. This was made clear
14 in a cable from Ambassador NOMURA on July 22. In
15 addition to all that, Ambassador NOMURA on July 23
16 requested that he be informed of the new cabinet's
17 policy toward America."

18 I go now to exhibit 2913, last paragraph on
19 page 1:

20 "Surely enough, at the very beginning
21 there were the following opening remarks by the
22 Minister of the Navy: 'We have now indeed come to the
23 crossroads where we must determine either upon peace
24 or war. I should like to leave this decision entirely
25 up to the Premier, and, if we are to seek peace, we

1 shall go all the way for peace. Thus, even if we
2 make a few concessions, we ought to proceed all the
3 way with the policy of bringing the negotiations to
4 fruition. If in the midst of negotiations -- after
5 negotiations have gone on for two or three months,
6 one says that "they won't do from any point of view,"
7 and "well, we've got to have war now," -- the navy
8 will be put to inconvenience. If we are to have war,
9 we must determine upon war here and now. Now is the
10 time. We are now at the final moment of decision.
11 If we decide that we are not to have war, I should
12 like to have us proceed upon the policy that we will
13 bring negotiations to fruition no matter what happens.
14 To this I said, 'If we were to say that we must de-
15 termine on war or peace here, today, I myself would
16 decide on continuing the negotiations.'

17 That concludes the excerpts.

18 I now call to the stand the accused OKA,
19 Takazumi.
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1 T A K A Z U M I O K A, an accused, being first
2 duly sworn, testified through Japanese inter-
3 preters as follows:

4 DIRECT EXAMINATION

5 BY MR. ROBERTS:

6 Q Are you the accused OKA, Takazumi?

7 A Yes, I am OKA, Takazumi.

8 MR. ROBERTS: May the defendant be shown
9 defense document No. 2828?

10 (Whereupon, a document was handed
11 to the witness.)

12 Q Please examine this document and tell us
13 whether or not it is your sworn affidavit.

14 A This is my affidavit.

15 Q Are the contents therein true and correct?

16 A They are true and correct.

17 MR. ROBERTS: I offer in evidence defense
18 document No. 2828.

19 ACTING PRESIDENT: The document will be
20 admitted.

21 CLERK OF THE COURT: Defense document No.
22 2828 will receive exhibit No. 3473.

23 (Whereupon, the document above
24 referred to was marked defense exhibit No.
25 3473 and received in evidence.)

1 MR. ROBERTS: I read exhibit 3473, omitting
2 the formal parts:

3 "1. I was born on 11 February 1890, and
4 entered upon my naval career when I was admitted to
5 the Naval Academy in 1908. From this date until 1923
6 I spent most of my time studying as a student in
7 various naval schools such as the Naval Torpedo
8 School (junior course), Naval Gunnery School (junior
9 course), Naval College (class B student), Naval
10 Torpedo School (advance course), Naval College (class A
11 student); in addition to acting as a member stationed
12 in France for the research of military affairs, and
13 an instructor in the Naval Torpedo School, the Naval
14 Submarine School, and the Naval College.

15 "2. I was decorated in November 1915 for
16 merit in the German-Japanese War, in November 1920
17 for merit in the European War, in April 1934 for
18 merit in the Manchurian Incident, and in May 1942 for
19 merit in the China Incident, respectively. These
20 awards were the same as those made to many thousands
21 of navy men and were of a nature intended only for
22 pure soldiers. In addition, the awards made to me
23 were all below the order made to the most meritorious.
24 Accordingly, the fact that I was decorated is no
25 indication of my participation in the common conspiracy,

1 etc., as contended by the prosecution (record, page
2 16,968).

3 "The fact that many thousands of naval men
4 received the same awards should be sufficient to
5 destroy this contention, unless all such recipients
6 are also indicted and placed on trial as aggressors
7 and conspirators.

8 "3. At the time the Manchurian Incident
9 broke out in September 1931, I was Navy Commander and
10 a member of Section Two, Division One of the Naval
11 General Staff. This section was concerned only with
12 armaments, and had no connection with military opera-
13 tions. Therefore, it did not participate in the Man-
14 churian Affair.

15 "4. In October of the same year I was
16 assigned for duty in the Naval General Staff and
17 concurrently in the Navy Ministry, and was transferred
18 to the Investigation Section of the Navy Ministry
19 which was temporarily organized. From October 1932
20 to April 1934 I was stationed in Paris and Geneva as
21 a member of the Japanese Navy delegation on the League
22 of Nations Permanent Military Commission and as a
23 member of the general Disarmament Commission of the
24 Japanese delegation. During that period I was pro-
25 moted to captain. Upon my return to Japan I again

1 served in the Temporary Investigation Section of the
2 Navy Ministry. In December 1936, I was appointed
3 Commander of the Warship 'Jingei' attached to the
4 Second Fleet and served on coastal patrol duty in
5 Japan.

6 "5. On December 1, 1937 I was assigned for
7 duty in the Naval General Staff and concurrently in
8 the Navy Ministry. During the foregoing period I was
9 not connected with any of the current problems in
10 the course of my duties. Therefore, with respect to
11 the Manchurian Incident, conclusion of the Anti-
12 Comintern Pact and the outbreak of the China Incident,
13 I did not participate and knew nothing directly in
14 connection with the navy's attitude concerning these
15 matters at that time.

16 "6. From January 15, 1938 to October 14,
17 1939 I served as Chief of Section One, Naval Affairs
18 Bureau, Navy Ministry. When I assumed this position
19 six months had elapsed since the outbreak of the China
20 Incident and it was after the fall of Nanking. During
21 this time my appointment as secretary to the Manchurian
22 Affairs Board was a routine appointment which was
23 merely nominal, and was coexistent with my tenure in
24 that office from January 1938 to November 1939; also
25 I do not recall attending any meetings of the board.

1 Secretaries to the Manchurian Affairs Board and also
2 the councilors to the same office were automatically
3 appointed from the navy, and I, in view of my duties
4 in the navy, was appointed to those positions, but
5 primarily the navy had little to do with the Man-
6 churian Affair and consequently I did not do any
7 actual work concerning it.

8 "7. The National General Mobilization Law
9 was enacted in early April 1939. Its enactment was
10 brought about in view of the situation within the
11 country which called for the production of war
12 materials and supplies in conformity with the gradual
13 expansion of the China Incident and the increasing
14 scale of operations. The operation of the National
15 General Mobilization Law was in the hands of the
16 Planning Board and it was only in case of some matter
17 of interest to the navy that a reference would be made
18 to the proper section, being Section Two, Naval Affairs
19 Bureau, at that time and I, as Chief of Section One,
20 was not connected in any way. For my part I never
21 thought or heard that the General Mobilization Law
22 was set up in preparing for a war of aggression.

23
24 "8. The Cabinet Information Board with which
25 I was connected during the period that I was Chief of
Section One was different and on a very small scale

1 as compared with the Information Board which existed
2 at the time of the surrender, and was utilized only
3 for the exchange of information among the section
4 chiefs from each ministry who had gathered once a
5 week during lunch hour. No discussions were held
6 touching upon the strengthening of the Anti-Comintern
7 Pact or international questions, nor was the gathering
8 in a position to discuss these matters. I do not
9 believe that the chief of the Information Board was
10 permitted to participate in a discussion of these
11 problems.

12 "9. I became Chief of the Third Division
13 in the Naval General Staff on October 15, 1939, was
14 promoted to Rear Admiral on December 1, 1939, and
15 held the post until October 15, 1940. The Third
16 Division, Naval General Staff, had charge of gather-
17 ing and investigating military intelligence and was
18 not connected either with question of operations or
19 disposition of current problems. Therefore, I did
20 not participate in the Japanese-Netherlands East
21 Indies Negotiations, the Japan-French Indo-China
22 protocol, the advance of Japanese troops into North
23 French Indo-China, or the Tri-Partite Pact between
24 Japan, Germany and Italy which arose during this
25 period.

1 "10. I became Director of the Naval Affairs
2 Bureau on October 15, 1940, and served in this capacity
3 until July 18, 1944. (Document 0001, page 333 is in
4 error. Exhibit No. 120 has last page missing. Cor-
5 rection on this date as well in exhibit No. 102.)

6 That I served as Director of General Affairs Bureau
7 concurrently as charged in the personal history sec-
8 tion of the Indictment, is also a mistake as there is
9 no General Affairs Bureau in the Navy Ministry. In
10 December 1, 1942, I became a Vice-Admiral.

11 "11. On July 18, 1944 I was appointed
12 Navy Vice-Minister and served until August 5, 1944.
13 On September 9, 1944 I was appointed Commander of the
14 Chinkai Naval Station and retired on June 23, 1945.

15 "12. As set forth in the government organiza-
16 tion regulations the Naval Affairs Bureau, like other
17 bureaus in the Navy Ministry, receives instructions
18 and orders from the Navy Minister and performs its
19 routine functions under the supervision of the Navy
20 Vice-Minister. The Director of the Naval Affairs
21 Bureau, like other directors, assumes responsibility in
22 his official duties to the Navy Minister and to nobody
23 else. (Exhibit No. 75 and exhibit No. 2980, par. 3 and
24 4.)

25 "With reference to matters pertaining to the

1 decision of the Navy Minister, the director and
2 chief of a bureau merely performs the routine pro-
3 cedure and they are consistently regarded as being
4 nothing more than organs in the nature of aides to
5 the Navy Minister. Thus from the point of view of
6 duties they can be considered as being physically
7 part and parcel of the Minister. Therefore, the
8 Director of Naval Affairs Bureau was never in a
9 position to assume any independent responsibility
10 vis-a-vis outside contacts.

11 "13. I assumed the post of Director of
12 Naval Affairs Bureau after the Tri-Partite Pact
13 between Japan, Germany and Italy had been signed.
14 The China Incident had expanded considerably, the
15 relations with the United States and Britain had
16 become strained, Japan was embarrassed by the economic
17 pressure, and it was a time when something should
18 have been done to cope with the situation through
19 diplomatic channels.

20 "I was informed that Foreign Minister
21 MATSUOKA had planned to turn relation with the
22 United States to the good on the basis of the three-
23 power alliance, but with the lapse of time, MATSUOKA's
24 diplomacy took the opposite turn and the relations
25 with the United States became in an inverse

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21 MATSUOKA had planned to turn relation with the
22 United States to the good on the basis of the three-
23 power alliance, but with the lapse of time, MATSUOKA's
24 diplomacy took the opposite turn and the relations
25 with the United States became in an inverse

1 proportion to the Japanese-German rapprochement.

2 Also because the American-Japanese negotiations, which
3 started in the spring of 1941, did not progress
4 satisfactorily Foreign Minister MATSUOKA was forced
5 to resign. The Third KONOYE Cabinet was formed, and
6 Premier KONOYE poured forth his full strength in the
7 American-Japanese negotiations, and to that end
8 Admiral TOYODA was especially chosen as Foreign
9 Minister.

10 "At that time Navy Minister OIKAWA held
11 high hopes that the American-Japanese negotiations
12 would be concluded and exerted everything in his
13 power to that end. As Director of the Naval Affairs
14 Bureau, I had charge of the routine handling of this
15 matter in the Navy Ministry and exerted my best
16 efforts towards the successful conclusion thereof.

17 "14. The outbreak of the second European
18 War, American-British aid to China, American-British
19 pressure on Japan, Tri-Partite Pact between Japan,
20 Germany and Italy, and Foreign Minister MATSUOKA's
21 diplomatic policy vis-a-vis the United States,
22 involved many delicate problems within the country
23 with respect to the negotiations with the United
24 States. General public opinion, and that within the
25 government as well as in the Supreme Command was high,

1 and therefore fear existed that if a misstep was
2 made, a great disturbance would have been created in
3 Japan.

4 "But as for the Navy Ministry, it was most
5 vital that a compromise in the negotiations should be
6 reached during this period, so it constantly cooperated
7 with Premier KONOYE, who entertained an ardent hope
8 in finding a way to resume American-Japanese relations.
9 Thus, upon the appointment of Admiral NOMURA as
10 Ambassador, and of Admiral TOYODA as Foreign Minister
11 as being the most appropriate persons to readjust
12 the American-Japanese relations, Navy Minister
13 OIKAWA did everything in his power to support them.
14 I know that Navy Minister OIKAWA urged Premier KONOYE
15 to use his political judgment in arriving at a decision
16 in the American-Japanese negotiations and the navy
17 always gave its wholehearted support.

18 "15. With respect to the domestic procedure
19 in the negotiations, first of all the Foreign Office
20 drafted the plan of such negotiations. Upon the
21 basis of the plan prepared by the Foreign Office it
22 was deliberated upon by the various quarters con-
23 cerned, including the Supreme Command, and a unanimous
24 decision reached, and then it would be telegraphed
25 to the Ambassador. This was the customary procedure,

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24 decision reached, and then it would be telegraphed
25 to the Ambassador. This was the customary procedure,

1 but because of the general situation within the
2 country it was very difficult to formulate a drastic
3 plan. It was not within the province of my department
4 as suggested by the prosecution in referring to
5 exhibit 1115. (Record, page 16,970.) This con-
6 struction of said exhibit has also been denied by
7 the defendant KIDO. (Record, page 31,238.) This is
8 borne out by exhibit 1207A, which is an extract from
9 the interrogation of Shigenori TOGO, then Foreign
10 Minister. This extract is with reference to a note
11 written by the Foreign Office of the Japanese Govern-
12 ment concerning negotiations with the United States
13 in which appear the following statements:

14 "The note itself was written by the
15 Foreign Office, but the responsibility for the com-
16 position rests with the participating members of the
17 liaison conferences. . .'

18 "In the same document is the additional
19 statement:

20 "As I have said at a previous meeting,
21 members of a liaison conference who were responsible
22 for the study and discussions on the matter were
23 TOGO, SHIMADA, SUGIYAMA, NAGANO, TSUKADA, ITO, KAYA,
24 SUZUKI, and the three secretaries -- HOSKINO, MUTO,
25 and OKA. As to the member of the cabinet, under the

1 constitution they were responsible for decisions
2 of the cabinet even on matters outside of their
3 respective offices. . .'

4 "The same testimony is contained in the
5 testimony of YAMAMOTO, Kuniaki, on page 25,901 of
6 the record. (Exhibit 2915.)

7 "The idea that a director of a bureau could
8 possibly be responsible for drafting the complete
9 formula for the government is preposterous on its
10 face. It is this erroneous conception of the power
11 and magnitude of my office which has led the prosecu-
12 tion to build a fallacious understanding of my, real
13 duties and to present an erroneous picture of my
14 actions.

15
16 "16. At this juncture, around August 1941,
17 as I recall, Premier KONOYE announced his intention
18 of personally conferring with President Roosevelt in
19 order to find a way for a compromise at a single
20 stroke.

21 "Because the American-Japanese negotiations
22 made no headway, I presumed that he (KONOYE) keenly
23 felt that no opportunity should be lost as it was
24 realized that this was the most appropriate way to
25 bring about a successful conclusion of the negotia-
tions.

1 "17. At that time the navy had confidence
2 in KONOYE and believed that if the Prime Minister were
3 clothed with full power and given wide discretion a
4 drastic proposal could be formulated, and thus pave
5 the way for concluding these negotiations. It pinned
6 its hopes on such a course. I was ordered by the
7 Navy Minister to secretly have a merchant ship stand
8 by, and made preparations for it to sail at any time.
9 However, the contemplated interview did not materialize
10 despite the fact that the United States had designated
11 the place of the conference, because it seemed that
12 it first desired to fix the basic principles, after
13 which to put the finishing touch at the conference,
14 which idea was contrary to Premier KONOYE's intention
15 of determining all vital issues at the conference.

16 "18. The navy then took the view that with
17 reference to the American-Japanese negotiations the
18 wholesale withdrawal of troops from China and elsewhere
19 would not be prejudicial. I understand that Admiral
20 YAMAMOTO, Commander-in-Chief of the Combined Fleet,
21 also made this suggestion to Premier KONOYE, and Navy
22 Minister OIKAWA frequently urged the Premier to take
23 such decisive action.

24 "It seemed that there existed strong opposition
25 within a quarter of the Supreme Command of the Army

1 at that time to such a move. The general situation
2 was such that utmost caution was required so as not
3 to bring about disunity between the army and navy.
4 Therefore, it was dealt with as a political issue
5 among the ministers. I believe that was one of the
6 reasons why the Navy Minister maintained the position
7 that it should be entrusted to the Premier.

8 "19. The position of the navy in opposing
9 war has at all times been well defined. As late as
10 the Third KONOYE Cabinet it remained adamant in its
11 position that war should be avoided if at all possible.
12 Reference is made to page 10,254 of the transcript of
13 evidence for November 12, 1946, wherein the then Navy
14 Minister OIKAWA made plain the navy's position. This
15 particular part of the evidence is a quotation from
16 the memoirs of the then Prime Minister KONOYE who
17 states that OIKAWA made the following statements which
18 are here quoted and are extracts from the transcript
19 of evidence.
20

21 "Let us leave the decision as to whether
22 there is any hope for a successful conclusion of the
23 diplomatic negotiations in the hands of the Prime
24 Minister and the Foreign Minister, and as for the
25 navy, she will comply with that decision. . .

"If there is any hope for a successful

1 conclusion of the diplomatic negotiations we want the
2 negotiations to be continued. . .

3 "That is if we are to rely on diplomatic
4 negotiations we would like it to be carried out
5 thoroughly. . . We want to make it a success at all
6 costs . . . We want the decision of the Prime
7 Minister . . . We want to comply with this decision.'

8 "Continuing with his statement the then Prime
9 Minister KONOYE made an additional remark which appears
10 of record at page 10,263 of the transcript of the
11 evidence and which is here quoted.

12 "In the meantime it became gradually known
13 . . . that since the navy herself had not the will to
14 fight, but couldn't say so herself, she was appealing
15 to the Premier through Bureau Chief OKA by the way of
16 Chief Secretary TOMITA for the Premier to express
17 it . . .

18 "As an outcome of it, Chief MUTO of the
19 Military Affairs Bureau called on Chief Secretary
20 TOMITA and reportedly requested that the navy be
21 asked to make a definite statement at this time. Hence,
22 when Chief Secretary TOMITA relayed this to Chief OKA
23 of the Navy Affairs Bureau, Bureau Chief OKA reportedly
24 stated that the navy, as usual, cannot say it and that
25 she can say no more than that she will comply with the

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2 negotiations to be continued. . .

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23 of the Navy Affairs Bureau, Bureau Chief OKA reportedly
24 stated that the navy, as usual, cannot say it and that
25 she can say no more than that she will comply with the

1 decision of the Premier . . .'

2 "Although the statements above quoted are
3 not exactly correct they are cited here to prove that
4 at the time when the negotiations referred to were
5 being carried on between the Prime Minister and the
6 Navy Minister, it is clear from the evidence that my
7 participation in the foregoing negotiations were my
8 official acts as liaison officer and I was merely
9 delivering messages of higher officials.

10 "20. The Navy Minister stated that the
11 resignation of Premier KONOYE would bring about hope-
12 lessness in the conclusion of the American-Japanese
13 negotiations so he desired that he should assume a
14 tenacious attitude. The Premier also entertained a
15 strong determination. In the early part of October
16 1941, I heard from Chief Secretary of the Cabinet
17 TOMITA that Premier KONOYE was firmly determined to
18 attempt to continue the negotiations, and under no
19 circumstances would he personally resign, so I was
20 very much encouraged, but about the middle of October
21 the en bloc resignation of the cabinet suddenly took
22 place.

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24 "21. I was informed by the Navy Minister
25 that after the cabinet meeting held on the morning
of October 14, it was proposed to hold a conference

1 decision of the Premier . . .'

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18 attempt to continue the negotiations, and under no
19 circumstances would he personally resign, so I was
20 very much encouraged, but about the middle of October
21 the en bloc resignation of the cabinet suddenly took
22 place.

23 "21. I was informed by the Navy Minister
24 that after the cabinet meeting held on the morning
25 of October 14, it was proposed to hold a conference

1 of four ministers, namely, Premier, Foreign, War, and
2 Navy, in the afternoon. During the said cabinet
3 meeting there was a heated argument between the War
4 Minister and the Foreign Minister, and as a result
5 of this incident, it was felt that no useful purpose
6 could be served by holding the proposed meeting of
7 the four ministers later in the day, and in fact
8 such meeting was never held. The Navy Minister also
9 advised me that it was intended that at the contem-
10 plated conference of the four ministers, he (the Navy
11 Minister) would reiterate the navy's stand expressed
12 to Prince KONOYE at his residence in OGIKUBO that
13 the 'Navy will leave the matter as to whether it could
14 wage war against the United States or not' in the
15 hands of the Prime Minister."
16

17 ACTING PRESIDENT: We will adjourn until
18 1:30.

19 (Whereupon, at 1200, a recess
20 was taken.)
21
22
23
24
25

AFTERNOON SESSION

1
2
3 The Tribunal met, pursuant to recess, at
4 1330.

5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

7 ACTING PRESIDENT: Before you start reading,
8 Mr. Roberts, have you come to any agreement yet with
9 the prosecution as to whether they want to serve
10 interrogatories on commission in the ISHII case?

11 MR. ROBERTS: That was Mr. Cole.

12 ACTING PRESIDENT: I am sorry; that was Mr.
13 Cole.

14 We expect you will finish this afternoon in
15 the OKA case.

16 MR. ROBERTS: As far as the direct examination
17 is concerned, we expect to finish. The rest is up to
18 the prosecution.

19 ACTING PRESIDENT: I wish the prosecution
20 will tell whcever is in charge of the commission of
21 Baron SHIDEHAKA that immediately following the close
22 of the OKA case we will take up the report of the
23 commission -- and the defense attorneys, too.

24 You may proceed with the reading.
25

- - -

1 T A K A Z U M I O K A, an accused, resumed the
2 stand and testified through Japanese inter-
3 preters as follows:

4 MR. ROBERTS: We continue on page 15:

5 "That night TOMITA, Chief Secretary of the
6 Cabinet, called on me and informed me of the decision
7 that the Cabinet would resign en bloc. TOMITA told
8 me that he was asked by the Director of Military
9 Affairs Bureau to inquire of the Navy that if the
10 Navy would state that it would be unable to fight
11 then the Army could be quieted. TOMITA told me that
12 he replied to the Director of Military Affairs Bureau
13 that it would be difficult for the Navy to state as
14 to such a matter and I agreed with him. Then I asked
15 TOMITA about my opinion to hold the Four Ministers'
16 Conference to confer with each other on this matter,
17 to which he replied that it was too late in view of
18 the impossible situation brought about at the cabinet
19 meeting in the morning.

20 "22. Thus the Navy became seriously appre-
21 hensive over the prospect of the negotiations, and
22 assumed great concern over the next cabinet. After
23 the resignation of the cabinet, Navy Minister OIKAWA
24 had heard from Prince KONOYE that Prince HIGASHIKUNI
25 would head the next cabinet, so we were wondering what

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21 hensive over the prospect of the negotiations, and
22 assumed great concern over the next cabinet. After
23 the resignation of the cabinet, Navy Minister OIKAWA
24 had heard from Prince KONOYE that Prince HIGASHIKUNI
25 would head the next cabinet, so we were wondering what

1 the Prince's idea would be in connection with the
2 American-Japanese negotiations. Then suddenly a
3 report reached us that War Minister TOJO was commanded
4 to form a new cabinet. This was really surprise news
5 to the Navy, and the Navy Minister and the rest of
6 us were taken aback.

7 "I felt that for the War Minister to become
8 the Prime Minister at such a time would make the
9 prospect of the American-Japanese negotiations all
10 the more difficult. I found it hard to understand
11 what was in the minds of the senior statesmen, who
12 were advisors to the Throne, or wherein their attention
13 lay with respect to these negotiations. Immediately
14 thereafter I discussed the foregoing with former
15 Chief Secretary of Cabinet TOMITA, who said that
16 according to Prince KONOYE the step taken would be
17 the best policy in coping with the American-Japanese
18 relations. When I heard this, I felt the position
19 was inconsistent, and was hard put to understand it.

20 "23. Since War Minister TOJO was ordered
21 to form a cabinet, it became necessary for the Navy
22 to exert its efforts all the more thereafter towards
23 the American-Japanese negotiations. For this purpose
24 I thought that it would be best for Admiral OIKAWA, who
25 was conversant with the past development in the

1 negotiations, to remain in the new cabinet. While
2 I had hoped for this, he refused to remain and
3 Admiral SHIMADA was appointed the new Navy Minister
4 to tackle the current difficulties.

5 "24. When Admiral SHIMADA became the new
6 Navy Minister, there was no change in enthusiasm with
7 respect to the negotiations. As one of the conditions
8 for accepting the portfolio of Navy Minister, Admiral
9 SHIMADA urged upon Premier TOJO that the American-
10 Japanese negotiations should be expedited. Also
11 immediately upon assumption of his post he instructed
12 the Vice-Minister and directors of the bureaus that
13 utmost effort should be made to avoid war with the
14 United States, and that the way should be paved to
15 consummate the Japanese-American negotiations by
16 overcoming all difficulties.

17 "25. In view of the foregoing it is clear
18 that the Navy did not want or desire war, and that
19 it was their desire to bring the negotiations to
20 avert war to a successful conclusion. Thus no
21 logical conclusion can be drawn from the evidence
22 which would support the charges against me that I
23 aided, abetted, assisted, participated or otherwise
24 engaged in any common plan or conspiracy to wage
25 aggressive war, or a war of any kind. On the contrary

1 I and my superior officers diligently endeavored to
2 avert war.

3 "At this point it might be helpful to point
4 out to the Tribunal the extent of my association
5 with my alleged fellow conspirators prior to the
6 date of the Indictment. I never met and consequently
7 never spoke to the defendants KIDO, ARAKI, DOIHARA,
8 HATA, KOISO, MATSUI, MINAMI, OSHIMA, UMEZU, OKAWA,
9 SHIRATORI and HIROTA.

10 "26. Japan's final reply to the United
11 States' note was drafted by the Foreign Office and
12 was delivered to me by Mr. YAMAMOTO of the Foreign
13 Office. As was customary, I ordered my subordinates
14 to study the draft. As a result thereof I sensed
15 that it was inadequate as a final note, and felt that
16 it would be appropriate to insert the wording that we
17 reserve the right to freedom of action. Accordingly,
18 this wording was inserted in the draft and related
19 to Mr. YAMAMOTO. However, when the draft of the final
20 note was distributed by the Foreign Office at the
21 liaison conference in early December (I do not remember
22 the date) I discovered that the suggested revision
23 was not made. After the conference I asked Mr. YAMAMOTO
24 whether that could be regarded as the final note, to
25 which he replied in the affirmative, and we parted.

1 "At that time I was of the opinion that
2 the problem of diplomatic procedure should naturally
3 be carried out upon the responsibility of the Foreign
4 Office, and because I personally lacked any knowledge
5 of the correct diplomatic procedure I therefore
6 relied upon the Foreign Office authorities.

7 "The Navy Ministry was not involved in the
8 problem concerning the dispatch of the final note to
9 an enemy country prior to the outbreak of war. To
10 my knowledge neither the discussions were had with
11 the Navy Minister or the Vice-Navy Minister nor was
12 our Ministry asked by the Naval General Staff per-
13 taining to such a problem, and I assumed that the
14 Foreign Office would adopt the appropriate necessary
15 procedure. Such being the situation at that time,
16 I did not give it much thought. I was vague as to the
17 exact nature of Japan's reply and believed it to be
18 the so-called 'ultimatum', and in all probability the
19 Navy Minister and the Navy Vice-Minister thought
20 likewise.

21 "However, after the war this matter became
22 an issue, and when I asked Mr. TOGO, the then Foreign
23 Minister, at Sugamo Prison with respect to this question
24 I was told that Japan's reply to the United States
25 was not the so-called 'ultimatum', but 'last notification'

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23 Minister, at Sugamo Prison with respect to this question
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25 was not the so-called 'ultimatum', but 'last notification'

1 Mr. TOGO explained that according to the then
2 circumstances it had the same significance as a
3 declaration of war. When I heard this explanation
4 I understood for the first time what Mr. YANAMOTO
5 meant when he said that the draft was all right.

6 "With regard to the time in which the final
7 note should be delivered to the United States, I
8 recall that, at the liaison conference, Premier TOJO
9 stated that it would be entrusted to the consultation
10 between the Foreign Office and the Supreme Command.
11 Later I heard that it would be delivered to the
12 American Government in Washington one hour before the
13 opening of hostilities. I do not remember the date,
14 from whom, or where I heard this information, except
15 the strong impression remaining in my mind that it
16 was to be delivered one hour prior to the opening of
17 hostilities. However I was not aware that the time
18 was changed to 30 minutes, but I learned for the first
19 time after the war that Mr. ITO, the then Deputy Chief
20 of the Naval General Staff, and the Deputy Chief of
21 the Army Staff called on the Foreign Minister, and
22 after consultation with the Foreign Minister the time
23 was altered to 30 minutes prior to the opening of
24 hostilities.
25

"At that time I had not heard from any source

1 whatsoever that the Naval General Staff entertained
2 any idea that it would commence hostilities without
3 notice. Inasmuch as I thought the Foreign Office
4 would take the proper procedure I did not anticipate
5 that any such question would arise, and therefore
6 I entertained no concern over its progress. It was
7 long afterwards when I learned that apparently
8 through the fault of the Japanese Embassy in Washington,
9 the note to the United States was not delivered at
10 the expected hour, and I was very much surprised.

11 "27. The personnel affairs of the naval
12 officers were in the hands of the Navy Minister. The
13 basis of the shore service of naval officers was
14 usually two years for the same service and place. At
15 the time the TOJO Cabinet was formed both the Vice-
16 Minister of Navy and the Director of the Naval
17 Affairs Bureau had served for approximately one
18 year and it did not come within the time for making
19 a shift. It was customary for the Navy not to make
20 any shift in the Vice-Navy Minister, much less the
21 Director of Naval Affairs Bureau, even if the Navy
22 Minister was changed. Therefore, the change in Premier
23 could not affect the personnel below that of the
24 Vice-Minister, and there was absolutely no precedent
25 for such changes. Even though a cabinet other than

1 whatsoever that the Naval General Staff entertained
2 any idea that it would commence hostilities without
3 notice. Inasmuch as I thought the Foreign Office
4 would take the proper procedure I did not anticipate
5 that any such question would arise, and therefore
6 I entertained no concern over its progress. It was
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17 Affairs Bureau had served for approximately one
18 year and it did not come within the time for making
19 a shift. It was customary for the Navy not to make
20 any shift in the Vice-Navy Minister, much less the
21 Director of Naval Affairs Bureau, even if the Navy
22 Minister was changed. Therefore, the change in Premier
23 could not affect the personnel below that of the
24 Vice-Minister, and there was absolutely no precedent
25 for such changes. Even though a cabinet other than

1 the TOJO Cabinet had appeared or a person other
2 then Admiral SHIMADA had become the Navy Minister
3 at that time, such an appointment would not have
4 altered the personnel below the rank of Vice-Minister
5 at all. Thus, the prosecution's premise that my
6 remaining in office is proof of my participation in
7 the conspiracy is once again an erroneous conception
8 and falls of its own weight. As a matter of fact I
9 offered my resignation to Admiral OIKAWA, but he
10 refused to accept it.

11 "28. During my service in the Navy I have
12 not once been assigned for duty in connection with
13 operations. I have been assigned for duty in connection
14 with routine planning of an armaments program several
15 times, and have been one of the naval officers connected
16 with it for many years. Due to lack of material I
17 cannot testify by presenting figures, but I shall
18 testify with respect to the planning policy as I am
19 able to recall from my personal experiences arising
20 out of my duties.

21 "29. In Japan the national defense plan is
22 drafted by the Supreme Command of the Army and Navy.
23 After Imperial approval is obtained, it is submitted
24 to the Prime Minister for his confidential reading.
25 Its contents is not a war program, but the principal

objective is the planning of an armament program.

1 As for the Navy, its principal objective is the
2 planning of a minimum force which would enable it to
3 cope with the strongest naval power which might
4 attack Japan from the western Pacific area. As
5 far as I know this objective was the policy of the
6 naval supreme command which had been conceived prior
7 to the Washington Conference without any alteration
8 until immediately preceding the Pacific War. It
9 would be more accurate to regard it in the defensive
10 sense rather than the aggressive sense.
11

12 "30 The Naval General Staff studies the
13 armaments which are necessary after taking into
14 consideration various domestic conditions; goes into
15 details and plans for the classification, types and
16 number of warships, land and water facilities, principal
17 war materials, and personnel; then drafts the proposal
18 and makes a request upon the Navy Ministry about every
19 four or five years. The Navy Ministry makes an in-
20 vestigation and considers the expenditure, materials,
21 technical aspect, industrial power and personnel
22 connected therewith. It consults and negotiates
23 with the Naval General Staff and prepares a joint
24 plan with the Naval General Staff. This plan is
25 discussed with the parties concerned in the Government

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1 and when unanimously agreed upon among the three
2 quarters it will be put into operation. The plan
3 finally agreed upon is usually one-half or less
4 than that requested by the General Staff. Therefore
5 the actual strength of Japan's Navy is generally far
6 below that requested by the Naval General Staff.

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1 "While I am unable to indicate by figures,
2 the result of Japan's construction after the Wash-
3 ington Conference was very insignificant as com-
4 pared with that of the American Navy. There was no
5 way of coming against the 1st, 2nd, 3rd Vinson Plan
6 and the Stark Plan. When we came to this point,
7 the Operational authorities became all the more
8 negative, and the situation was such that they went
9 to the great trouble of counteracting the American
10 plan by utilizing the limited number of big battle-
11 ships or devising midget submarines. There was
12 considerable deficiency in the production of air-
13 craft, domestic materials and industrial capacity.

14 "Also the long drawn out China Incident
15 gave further pangs to naval preparation. It was
16 evident that under such circumstances, when we
17 keenly felt the deficiency in military and national
18 strength in a defensive war against the United
19 States alone, we could not possibly think about
20 operating against the American and British Navies.
21 The annual operational plan, which is prepared by
22 the Navy General Staff, or the annual plan prepared
23 by the Naval General Staff, which is put into effect
24 as the maneuvers by the combined fleet, were not
25 formulated as operations against the United States

1 and Britain. I have never seen or heard of any plan
2 or idea to wage such a war, and I am convinced that
3 they were not formulated as such.

4 "Such being the state of affairs, it was
5 natural for the Navy to have been constantly
6 apprehensive of relations with the United States
7 and Britain becoming aggravated, and the Navy
8 desired its adjustment by exerting itself to that
9 end from the outset.

10 "31. However, while the Japanese Navy was
11 being worried by the series of American naval ex-
12 pansion programs, the China Incident extended with
13 no prospects of its termination, American-British
14 aid to China became vigorous and economic pressure
15 on Japan became intense, placing her in a very
16 embarrassing position and finally making her feel
17 the threat militarily. It was believed that if these
18 matters were allowed to follow their course the
19 China Incident could never be settled, and we would
20 face a serious critical situation by being attacked
21 by a third power at any time. The Navy believed
22 that there was no other way than the successful con-
23 clusion of the American-Japanese negotiations and,
24 accordingly, made efforts to that end. The Naval
25 General Staff which was responsible for the national

1 defense, in light of such a situation, had to
2 study how to act in case it might become necessary
3 to wage war against the United States and Britain,
4 and it was natural for it to make plans against
5 such an eventuality. I believe such a survey might
6 have been gradually accelerated under the pressing
7 circumstances.

8 "I am unable to state exactly when the
9 foregoing studies started and what development took
10 place because I did not personally participate in
11 them, but it seems to me that nothing was done within
12 the Naval General Staff during 1940. About the first
13 or middle part of October, 1941, I heard for the
14 first time what purported to be the view of the
15 Naval General Staff in piecemeal from ITO, Deputy
16 Chief of the Naval General Staff, to be as follows:

17 "In the event of war against the United
18 States and Britain, the Naval General Staff had con-
19 fidence in the early stage of the operations, and
20 there was a possibility of continuing the war for
21 about a year and a half thereafter, but that it
22 could not make a definite statement after that as it
23 would depend upon what the total war capacity of the
24 nation would be. Therefore, if war could not be
25 avoided, the sooner the better, and if it should be

1 next year, we should be challenged by the United
2 States and Britain, and we would have to make a
3 blanket submission without exchanging blows.'

4 "When I heard the foregoing observations
5 at that time, I keenly felt the need of accelerating
6 the American-Japanese negotiations. Conditions
7 being as stated above, it was not the ideology or
8 plan of operations of the Japanese Navy to wage war
9 against the United States and Britain. It arose out
10 of the China Incident when the country was faced with
11 a critical situation and stood between the failure or
12 existence of the State. Then for the first time,
13 the matter was studied as a last resort and was not
14 a plan of long preparation, which could be clearly
15 gathered from the history of the Navy's armed
16 preparation.

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18 "32. The prosecution has argued that during
19 the closing days of the TOJO Cabinet in July, 1944,
20 SATO (one of the accused) and I had been maneuvering
21 against YONAI and others to save the said Cabinet.
22 However, this must have been predicated on the lang-
23 uage of Admiral YONAI contained in KIDO's diary.

24 "This matter refers to the request which
25 Premier TOJO made to the Navy Minister to sound
Admiral YONAI, who was a naval officer, whether he

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2 States and Britain, and we would have to make a
3 blanket submission without exchanging blows.'

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5 at that time, I keenly felt the need of accelerating
6 the American-Japanese negotiations. Conditions
7 being as stated above, it was not the ideology or
8 plan of operations of the Japanese Navy to wage war
9 against the United States and Britain. It arose out
10 of the China Incident when the country was faced with
11 a critical situation and stood between the failure or
12 existence of the State. Then for the first time,
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23 uage of Admiral YONAI contained in KIDO's diary.

24 "This matter refers to the request which
25 Premier TOJO made to the Navy Minister to sound
Admiral YONAI, who was a naval officer, whether he

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1 would accept a portfolio in the cabinet. (This
2 procedure is customary in such a case.) Since I
3 was Vice Navy Minister at that time, I sounded
4 Admiral YONAI after being ordered to do so by
5 Admiral NOMURA, the Navy Minister, and SATO did not
6 accompany me on that visit. Admiral YONAI's state-
7 ment at that time was that he could not join as a
8 cabinet member but he would be glad to assist the
9 Navy Minister as a military councillor. He was
10 also desirous of having Admiral SUETSUGU as military
11 councillor to assist the Chief of Naval Staff. The
12 matter was simply as stated above. I have never
13 called on any one other than Admiral YONAI, and I
14 have not upon my own accord without orders from the
15 Navy Minister conducted myself otherwise. This fact
16 has been corroborated by my superior at that time,
17 Admiral NOMURA.

18 "33. While I was Director of the Naval
19 Affairs Bureau, with the exception of three or four
20 times due to illness, I attended the Imperial and
21 Liaison Conferences as 'Kanji' or secretary, and
22 the Investigation Committee of the Privy Council as
23 'Setsumei-In' or explainer. However, in none of
24 these conferences or committee meetings was I
25 authorized to participate in the discussions or

exercise the right to vote.

1 "The Liaison Conference is not based on
2 government organization regulations, therefore it
3 is not a decision-fixing organization. It is
4 merely a liaison conference in the nature of a
5 round table discussion to circularize and exchange
6 opinions on problems which are common to the Head-
7 quarters and the Government. When a concurrence is
8 reached the Supreme Command and the Government will,
9 through their specific organs, carry out their
10 respective tasks.
11

12 "In my capacity as 'Kanji' or official
13 clerk of the conference, I was not a member of the
14 conference, therefore, I could not affix my signature
15 to any matters taken up at the conference. I could
16 only make explanations when asked to do so by a
17 member thereof and my primary duty was to supply
18 information when called upon to do so.
19

20 "Therefore, the secretary's position was
21 different from that of the members of the liaison
22 conference, and he was not at all responsible for
23 matters taken up at the conference. At the liaison
24 conference, it will be seen from exhibit 1103, that
25 I was never present without my superior in the person
of the Navy Minister. This same exhibit shows that I

1 never attended without my superior, although it will
2 also disclose that I failed to attend some of the
3 meetings which were attended by the Navy Minister.
4 (Also exhibit 1107.)

5 "Reference is made to exhibit 1209, which
6 is an extract from an interrogation of Hideki TOJO
7 concerning a similar Imperial Conference held on
8 December 1st or 2nd, in which he gives the names of
9 certain persons who attended such conferences and
10 states concerning them:

11 "'Those were the responsible people who
12 were there....' In continuing his statement, he
13 says:

14 "'There were also probably three other
15 persons in the capacity of secretaries, for these
16 three usually came to the Imperial Conferences. The
17 three were the Chief Cabinet Secretary Naoki HOSHINO,
18 Chief of the Military Affairs Section of the War
19 Ministry, Mr. Sho MUTO, Chief of the Military Affairs
20 Section of the Navy Minister, Vice Admiral OKA....
21 I am not positive that they were there....' This
22 remark becomes significant in view of the fact that
23 only responsible persons who attended such confer-
24 ences could be recalled by Hideki TOJO, who was not
25 even certain that I was present but that I may have

1 been because there were secretaries that usually
2 attended.

3 "34. The prosecution has also placed undue
4 significance on my attendance at the meetings of the
5 Investigation Committee of the Privy Council, but
6 I attended them only in the company of the Navy
7 Minister as 'explainer' for actually when the
8 Minister spoke, I accompanied him in order to sub-
9 mit materials which he needed. It will be evident
10 upon examination of the exhibits mentioned hereafter.
11 In any case, the 'explainer' did not express himself
12 nor participate in the decisions. These 'explainers'
13 merely accompanied these Ministers, and there were
14 many of them from the various Ministries, and they
15 played no important role whatever at those meetings.
16 (Exhibits Nos. 649, 1241, 1266, 1275, and (87.)

17 "The prosecution also stated, without
18 offering any proof, that I attended the cabinet
19 meetings, but I have never attended any cabinet
20 meetings, nor was I privileged to do so.
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1 "35. It is the practice for the Naval General
2 Staff to draw up and draft plans of operations, after
3 which only the outline is shown to the Navy Minister.
4 According to the service regulations of Imperial Head-
5 quarters, the Navy Minister handles all navy admin-
6 istrative matters and the Vice-Navy Minister, the
7 Director of the Naval Affairs Bureau, the Director
8 of the Mobilization Bureau and others are members
9 of his suite. Yet they do not participate in the
10 discussions pertaining to the plan of operations or
11 in matters within the province of the Naval General
12 Staff or of the Imperial Headquarters matters which
13 are discussed at Imperial General Headquarters meet-
14 ings. The personnel are called in as a matter of con-
15 venience for the purpose of enabling them to contact
16 the Imperial Headquarters when it makes requests of
17 the Navy Ministry in connection with the disposition
18 of naval administration matters which are handled by
19 the Navy Ministry according to the Navy Ministry Or-
20 ganization regulations. As a matter of fact, I have
21 not even once attended the conference of Imperial
22 Headquarters, nor have I served in the Imperial Head-
23 quarters. Nobody from the Navy Ministry was connected
24 with the plan of operations of either the Imperial
25 Headquarters or of the Naval General Staff.

"36. The Imperial Headquarters is divided
1 into two classes: Army section and navy section, and
2 the orders are also similarly divided. They are not
3 simply called Imperial Headquarters orders. The order
4 pertaining to the Burma-Thailand Railroad was the order
5 of the army section, Imperial Headquarters. From the
6 nature thereof the order was not connected with the
7 naval operations, so the Naval General Staff, which
8 was the navy section in the Imperial Headquarters,
9 must have been not aware of its contents. As for the
10 Navy Ministry, beginning with the Navy Minister,
11 nobody had participated in this matter and they were
12 absolutely not connected therewith. Consequently any
13 suggestion that the Naval Affairs Bureau was involved
14 in this incident is entirely unfounded. (See exhibit
15 475, page 8.)
16

"37. With reference to the Tripartite Alli-
17 ance and the Anti-Comintern Pact, the prosecution has
18 alleged that as a member of the Military Affairs
19 Committee, I was connected with the strengthening
20 of the Tripartite Alliance and the Anti-Comintern Pact.
21 However, the meeting of the Military Affairs Committee
22 was not of vital importance. It is composed of about
23 15 members headed by the Foreign Minister, and included
24 Vice-Foreign Minister, Bureau Directors of Foreign
25

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1 Office, Directors of the Military Affairs Bureau of
2 the Army and Navy, Chiefs of the Second Section, Army
3 General Staff and of the Third Section Naval General
4 Staff. It was an extremely perfunctory gathering and
5 took a very ceremonious character wherein the attaches
6 from the German Embassy and Japanese Staff Officers
7 aforementioned would attend the luncheon, at which time
8 they would explain past events in the war. All told
9 there were only two gatherings. The explanation of the
10 war situation took the form of reading a written report.

11 "The committee with which I was associated as
12 indicated above had nothing to do whatever with the
13 triple alliance or the strengthening of the Anti-
14 Comintern Pact.

15 "38. The various ministries of the government
16 are interrelated with each other with respect to matters
17 coming within their respective jurisdictions. Frequently,
18 there are matters which require collaboration with other
19 ministries. For this reason every ministry creates
20 committees on such matters as the need arises, and each
21 ministry appoints members to serve on such committees.
22 As for the Navy Ministry, it appoints committee mem-
23 bers depending upon the nature of the matters involved,
24 from among the appropriate bureaus.

25 "In such a case, as a rule. the Director or

1 Office, Directors of the Military Affairs Bureau of
2 the Army and Navy, Chiefs of the Second Section, Army
3 General Staff and of the Third Section Naval General
4 Staff. It was an extremely perfunctory gathering and
5 took a very ceremonious character wherein the attaches
6 from the German Embassy and Japanese Staff Officers
7 aforementioned would attend the luncheon, at which time
8 they would explain past events in the war. All told
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21 ministry appoints members to serve on such committees.
22 As for the Navy Ministry, it appoints committee mem-
23 bers depending upon the nature of the matters involved,
24 from among the appropriate bureaus.

25 "In such a case, as a rule, the Director or

1 one of the Chiefs of the Section of the appropriate
2 Bureau is chosen to serve on such committees. But
3 actually most of these committees merely go to the ex-
4 tent of being a liaison, and as for its importance to
5 the navy, it is sufficient if the navy knows what
6 has taken place and where the conference was held.
7 Thus, in most cases, the man in charge of the matter
8 or the chief of the section would attend, and I, as Dir-
9 ector of the Bureau, seldom attended. As a matter of
10 fact, I do not even recall being mentioned as a member
11 of many such committees, because they were too numer-
12 ous. Again when I was about to be appointed, in many
13 cases I accepted the appointment on condition that I
14 should not be required to attend any conferences.

15 "A similar situation prevailed with regard to
16 council meetings. At these meetings matters pertain-
17 ing to important state policy were never deliberated.
18 I was never present at these meetings.

19 "39. There was no special department in the
20 Navy Ministry for the handling of prisoners of war;
21 therefore, prisoners captured by the navy were turned
22 over to the army. Prisoners who were captured by the
23 naval units were all handled by agencies of the army
24 such as the War Prisoners Information Bureau and other
25 units connected with prisoners of war. However, in

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1 case it became impossible to immediately deliver to
2 the army the prisoners of war captured by a naval unit,
3 they were provisionally interned by the naval unit on
4 the field, or if it were in Japan, as a matter of con-
5 venience, by the naval station under the jurisdiction
6 of the commanding officer of said naval station. Of
7 course, further procedure was carried out under the
8 command of the superior commanding officer, and I
9 assumed the handling of the prisoners of war was con-
10 ducted according to the laws and regulations.

11 "40. The prosecution argued that I am respon-
12 sible for mistreatment of POW's, by quoting testimony
13 of SUZUKI, who stated that the note of protest respect-
14 ing the treatment of prisoners of war was dispatched
15 to the Navy Ministry. However, attention is called to
16 page 15,527 of the record wherein this witness admits
17 that the documents were sent to the Chief of the Prison-
18 ers of War Information Bureau and the Chief of the
19 Ministry Affairs Bureau and/or Vice-Minister of War.
20 The only document in evidence wherein a copy was sent
21 to the Naval Affairs Bureau is dated April 11, 1945,
22 which is about one year subsequent to my vacating
23 the post (exhibit 2174). One of the matters which
24 comes within the jurisdiction of the Naval Affairs
25 Bureau is the report under the regulations covering

1 the names and rank of any prisoners held by any units,
2 and we would thus be able to furnish information thereon
3 to the Foreign Ministry. However, during my tenure in
4 office as Director of the Naval Affairs Bureau, I have
5 never heard, seen, or recall any note of protest.

6 "41. With reference to the alleged atrocities
7 of the naval units, as an officer in the Japanese Navy
8 I cannot but help feel sincere regret. In view of the
9 history and education of the Japanese Navy, it is in-
10 credible and I cannot understand how such acts ever
11 occurred. The naval units, whether on sea or ashore,
12 were attached entirely to the channel of the supreme
13 command. As for their operational movements, the Navy
14 Ministry had no knowledge whatsoever. Therefore it had
15 no knowledge concerning the orders of the commanding
16 officers or reports concerning troop movements. Thus
17 I had no knowledge concerning the foregoing incidents
18 while I occupied the post of Director of the Naval
19 Affairs Bureau, and I learned of it for the first time
20 when it was related before the Tribunal. Especially
21 is the fact that the commanding officer ordered these
22 atrocities beyond my comprehension. Similarly, at the
23 time I was Director of the Naval Affairs Bureau I had
24 never seen any telegram or correspondence pertaining
25 to the alleged request by Germany with respect to sub-

1 marine warfare or consultation thereon, nor had I heard
2 anything relating thereto.

3 "42. With reference to the killing of 96
4 POW's on Wake Island in 1943, I had no knowledge of it,
5 and in fact I again learned of it for the first time be-
6 fore this Tribunal. This incident also concerned the
7 combat unit on the spot, and the Navy Ministry was not
8 contacted or connected with it. It would be absurd to
9 hold the Director of the Naval Affairs Bureau respon-
10 sible, as he was in no position to issue orders to the
11 combat units.

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1 "43. The same can be said with reference to
2 the prisoners of war on Makin wherein the prosecution
3 quoted the testimony of Rear Admiral ABE in an attempt
4 to place the responsibility on the Central Command.
5 Again I have learned of this incident for the first time
6 in this Tribunal. The statement to the effect that oral
7 instructions came from the Central Command is incon-
8 ceivable. This is particularly so in the light of the
9 testimony given by the witness TOMIOKA in exhibit 3057.

10 "44. Next the prosecution attempted to fix
11 the responsibility for the sinking of merchant ships on
12 the Director of the Naval Affairs Bureau, but this, too,
13 is absurd. Needless to state, the Navy Ministry, much
14 less the Naval Affairs Bureau, does not participate in
15 matters pertaining to combat strategy, and therefore this
16 problem could not involve the Ministry. This is beside
17 the point but the prosecution has failed to produce any
18 evidence of a policy adopted by the Central Command to
19 wantonly kill survivors of sunken ships, or to mistreat
20 prisoners in any manner. Exhibit No. 3054-C and similar
21 orders show exactly the contrary to be true.

22 "45. It is not suggested that the action taken
23 by the prosecution against me is wilfully malicious or
24 intentionally misconceived. It is rather an un-
25 intentional misconception of the importance of the

1 office held by me as Director of the Naval Affairs Bur-
2 eau. This was a clerical bureau at all times subordinate
3 and responsible to the Navy Minister, and I was never
4 in a position to determine or finally approve of matters
5 of State policy. My presence at many of the policy-
6 making conferences was always in the capacity of a sec-
7 retary, as heretofore outlined, and it is not difficult
8 to understand how this attendance on my part may have
9 been misconstrued.

10 "I am aware of the fact that stories and rumors
11 may have been circulating after the war concerning my
12 alleged power and influence among a so-called 'group'
13 but there is no basis in fact for such rumors. Basically,
14 I have always been opposed to groups and factions, and
15 the mere suggestion of my participation in such a group
16 is erroneous and revolting to my very nature. I was al-
17 ways devoted to performing my duties in the navy in
18 accordance with the regulations and was at all times
19 careful to guide the actions of myself and my sub-
20 ordinates under the best traditions of the navy for the
21 maintenance of military discipline.

22 "I was never in a position, politically or
23 otherwise, and consequently did not conspire with any
24 other military or political figures to initiate or wage
25 any wars of aggression or to commit any of the remaining

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17 ways devoted to performing my duties in the navy in
18 accordance with the regulations and was at all times
19 careful to guide the actions of myself and my sub-
20 ordinates under the best traditions of the navy for the
21 maintenance of military discipline.

22 "I was never in a position, politically or
23 otherwise, and consequently did not conspire with any
24 other military or political figures to initiate or wage
25 any wars of aggression or to commit any of the remaining

1 crimes charged against me. I have spent my life in the
2 service of my country, as a naval officer, and have
3 never swerved from the path of duty, in time of peace
4 or war."

5 I have an additional question to put on direct
6 examination.

7 BY MR. ROBERTS:

8 Q Mr. OKA, to what extent did the Naval Affairs
9 Bureau participate in the handling of prisoners of war?

10 A I should like to tell you the Navy Ministry's
11 handling of prisoners of war, as I believe that will
12 enable you to understand better. I should like to ex-
13 plain to you the matters handled by the Navy Ministry in
14 relation to prisoners of war, as I believe that will
15 enable you to understand the whole question better.

16 In all the various rules and regulations of the
17 Navy Ministry there is none which provides for the
18 treatment of prisoners of war. Matters relating to
19 prisoners of war were therefore handled as matters be-
20 longing to general naval administration. The main points
21 of this were the establishment, the revision, or the
22 abolishment or the abolition of rules pertaining to
23 prisoners of war -- to the treatment of prisoners of war.

24 The drafts relating to these affairs were drawn
25 up by the assistants to the Navy Minister and in the

1 Navy Ministry they were the chiefs -- they were the
2 Naval Affairs Bureau, the Legal Bureau, the Intendance
3 Bureau, and depending on the matters in question, some-
4 times the Medical Bureau and the Munitions Bureau, but
5 in many cases the navy -- some of these rules had al-
6 ready been established before I came into office and I
7 have never had anything to do with these matters during
8 my tenure of office.

9 The second matter handled was liaison with
10 various offices within the country in regard to the
11 handling of prisoners of war. This was mainly handled
12 by the Naval Affairs Bureau.

13 The third point was various demands coming in
14 to the central authorities from units at the front in
15 regard to the handling of prisoners of war. For instance,
16 the question of funds relating to the internment of
17 prisoners of war, the supply of clothes, and of medicine

18 -- these matters were generally handled by the units
19 at the front which actually had charge of prisoners of
20 war, but when they were unable -- when they found their
21 own resources insufficient, they would make demands or
22 requests of the Navy Ministry. These requests, depend-
23 ing on their nature, would be handled either by the
24 Intendance Bureau, the Medical Bureau, or the Munitions
25 Bureau.

1 That covers the complete range of subjects
2 handled by the Navy Ministry in relation to prisoner of
3 war affairs.

4 In regard to the actual supervision or control
5 of prisoners of war in battle areas, the commander of a
6 fleet was the supreme authority. In the home -- in the
7 Japanese homeland, the supreme authority was either the
8 commander of the naval station under whose jurisdiction
9 the prisoners of war might be interned or that of --

10 THE INTERPRETER: Correction: Or the commander
11 of a minor naval station where prisoners of war were
12 similarly interned.

13 A (Continuing) The Navy Minister's position
14 vis-a-vis these various commanders was that since the
15 Navy Minister controlled, led all navy men and civilians
16 attached to the navy, he had supervisory powers.

17 That covers the complete range of the Navy
18 Minister's connection with prisoners of war affairs,
19 and that of the Navy Ministry.

20 MR. ROBERTS: You may cross-examine.

21 ACTING PRESIDENT: Captain Robinson.

22 CAPTAIN ROBINSON: Mr. President, the cross-
23 examination will be conducted by Commander Cole.

24 MR. ROBERTS: Another one of the defense counsel
25 desires to examine.

ACTING PRESIDENT: Mr. Blakeney.

1 MR. BLAKENEY: I am cross-examining on behalf
2 of General UMEZU.

3 CROSS-EXAMINATION

4 BY MR. BLAKENEY:

5 Q Mr. Witness, in Section 6 of your affidavit,
6 appearing on pages 3 and 4 of the English version, you
7 state that the navy had little to do with the Manchurian
8 Affair and consequently that you did not do any actual
9 work concerning it.
10

11 Was there not established in Manchuria, soon
12 after the Manchurian Incident, a naval mission under the
13 jurisdiction of the Japanese Navy?

14 A I recall that; I remember.

15 Q And was not this organization later abolished
16 and its functions transferred to the office of the Naval
17 Attache in Manchukuo?

18 A I believe that was so.

19 Q Do you know whether that office was established
20 originally with or without consultation with the Japan-
21 ese Army?

22 A I don't know anything at all about the circum-
23 stances surrounding the establishment of that mission,
24 and neither do I know what kind of work the naval mission
25 was engaged in.

1 Q Do you know whether it was responsible to or—
2 under the jurisdiction of the Commander in Chief of the
3 Kwantung Army?

4 A I don't know, but judging from the circumstances
5 and the structure of the mission, I believe that while
6 it had relation with the Kwantung Army it was not under
7 its command.

8 Q You do know, do you not, that that naval mission,
9 or naval attache's office as it later became, had the
10 guidance of the Manchukuan Navy?

11 A I believe that was so.

12 Q And do you not know that it is a fact that the
13 navy, the Japanese Navy, had a priority in the imports
14 from Manchukuo of phosphorous, iron or iron ore, and
15 other materials?

16 A I knew nothing at all about that.

17 MR. ROBERTS: I want to request from counsel
18 information as to whether this is direct or cross-
19 examination.

20 ACTING PRESIDENT: He announced when he started
21 that it was cross-examination.

22 MR. ROBERTS: Oh, I am sorry.

23 BY MR. BLAKENEY:

24 Q Don't you know that the Japanese Navy had a
25 priority for the imports of diesel fuel for use in

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1 submarines from the Fushun area?

2 A I don't know whether they had a priority, but
3 I do know that the Japanese Navy did get oil from there.
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1 Q Do you know whether the Navy, Japanese
2 Navy, had or had not officers dispatched to and
3 stationed in the munitions plants of Manchukuo?

4 A I don't know very well about that.

5 Q Don't you know that those officers were
6 stationed there and that they had or assumed author-
7 ity to guide the production of munitions in those
8 plants?

9 MR. ROBERTS: I object on the ground that
10 the question has already been answered.

11 THE INTERPRETER: The witness replied, "I
12 don't know."

13 ACTING PRESIDENT: Let the answer stand.

14 MR. BLAKENEY: I now cross-examine on behalf
15 of Mr. TOGO.

16 Q I want to refer you, Mr. Witness, to
17 section 26 of your affidavit, the part thereof
18 appearing on pages 19 and 20 of the English text.
19 You have stated there that you learned that the
20 final Japanese note to the United States would be
21 delivered in Washington one hour before the opening
22 of hostilities; that is, that it had been so decided
23 after consultation between the Foreign Ministry and
24 the Supreme Command of Army and Navy. Now, am I to
25 understand that as meaning that you learned that the

1 note was to be delivered at a time which, as the
2 Naval High Command knew, was one hour before the
3 commencement of hostilities or was it your under-
4 standing that the Foreign Ministry knew that the
5 time so set was one hour before the commencement of
6 hostilities?

7 A Since I myself had been thinking about this
8 point with the time set for the attack on Pearl Harbor
9 especially in mind, that point still comes back to me
10 at the present moment. In the negotiations of the
11 Naval General Staff with the Army General Staff and
12 with the Government and with the Foreign Ministry,
13 I believe that the actual time of attack was in mind.

14 THE MONITOR: The word "Government" should
15 be deleted.

16 Q In whose mind?

17 A My belief is that the negotiations were
18 conducted on the basis of the actual time.

19 Q What I am asking you is, that while undoubtedly
20 ly the High Command knew the actual time, had you any
21 reason to believe that the Foreign Minister or any
22 Foreign Ministry official knew what would be the
23 actual time of attack?
24

25 A I don't know.

Q Was the time of attack, the time for which

1 the attacks were scheduled, ever mentioned to your
2 knowledge in a liaison conference?

3 A I don't believe it ever did.

4 Q Did you know it yourself?

5 A I knew it.

6 Q How did you learn it?

7 A That is the point which I am unable to
8 remember. I believe that probably I must have heard
9 it from the Naval General Staff.

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1 Q Now, you have testified that at a time after
2 the original decision for delivery of the final
3 note to the United States that time was changed,
4 and that after consultation among the Vice Chief of
5 the Naval General Staff and the Vice Chief of the
6 Army General Staff with the Foreign Minister the time
7 for delivery of the note was altered to thirty min-
8 utes prior to the opening of hostilities. Of course,
9 you weren't at that meeting, were you?

10 A No, I wasn't.

11 Q In fact, you said, I believe, that you
12 learned of that only after the war.

13 A After the end of the war.

14 Q Then, have you any knowledge whether at
15 that time, at the time of that consultation, the
16 Foreign Minister had or was given any information
17 concerning the time at which the attack should take
18 place?
19

20 A What do you mean by when the time of attack
21 would be? I cannot quite get you.

22 Q I mean, have you any reason to believe that
23 the Foreign Minister knew or was at that meeting
24 told at what time the attack would take place?

25 A He didn't know -- I don't know about that.

Q By the way, were the points of attack ever

1 mentioned to your knowledge in the liaison conference?

2 A It is not in my recollection.

3 Q Now, about the preparation of the final
4 note to the United States concerning which you have
5 testified to some extent in Section 26 of your affi-
6 davit beginning on page 17 of the English text,
7 please tell me just what part you took in the draft-
8 ing or revision of that final note.

9 A As I was very busy with various matters at
10 the time, I had some difficulty in trying to recol-
11 lect the details, but I have been able to do so from
12 putting different things together in my mind, and now
13 it comes to me that the draft was originally drawn
14 up in the Foreign Office and then passed on to the
15 Navy ministry. And then I ordered my subordinates --
16 I gave this draft to my subordinates and ordered them
17 to study it well. This was a practice which I had
18 always been doing in regard to drafts of a similar
19 nature.
20

21 ACTING PRESIDENT: We will recess for
22 fifteen minutes.

23 (Whereupon, at 1445, a recess was
24 taken until 1500, after which the proceed-
25 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Blakeney.

4 BY MR. BLAKENEY (Continued):

5 Q I don't know whether you had finished your
6 answer.

7 A I, myself, feel that I have not finished,
8 but I have forgotten how far I went.

9 MR. BLAKENEY: Well, let it be read back
10 to him.

11 (Whereupon, the Japanese court
12 report read.)

13 A My subordinates told me that it would be
14 better to insert words to the effect that we would re-
15 serve freedom of action. I agreed with their opinion
16 and immediately contacted Mr. YAMAMOTO, Director of
17 the American Bureau of the Foreign Office.

18 THE MONITOR: Informed him about it.

19 A (Continuing) I have forgotten whether in
20 contacting Mr. YAMAMOTO I did so by telephone or
21 whether I sent a messenger. I left things at that,
22 but when the note was distributed at the Liaison
23 Conference, as is written in my affidavit, I saw no
24 such wording in the note as I had suggested, and,
25 therefore, when the Liaison Conference had been

1 concluded and I was leaving I turned to YAMAMOTO,
2 who was sitting next to me, and told him of that,
3 and asked him: "Do you consider that this is an ulti-
4 matum -- will this be an ultimatum?" YAMAMOTO said:
5 "Yes, this is perfectly all right." And we parted.
6 That is the fact -- those are the facts.

7 Q Well, now, do I understand that this story
8 which you have just told us is the only connection
9 that you had with the preparation of the revision
10 of that final note?

11 A Yes, you may.

12 Q You never at any other time proposed revisions
13 which either were or were not accepted and added to
14 the note?

15 A I don't recall.

16 Q Would you say that in your opinion this pro-
17 posed revision of yours was quite an important matter,
18 or otherwise?

19 ACTING PRESIDENT: I don't think his opinion
20 on that will help the Court any.

21 Q Well, in point of fact, Mr. Witness, this
22 revision of yours is a matter which you entirely for-
23 got until quite lately, isn't it?

24 A Yes. Until this matter became -- was taken
25 up as a problem, I didn't think of it.

1 THE MONITOR: Until after the end of the war.

2 Q In fact, until after this trial had been in
3 progress for several months, isn't that so?

4 A Yes.

5 Q In fact, you didn't remember it at all until
6 Captain SHIBA told you that it happened, did you?

7 A Oh, I knew of that before that.

8 Q Before what?

9 A Well, then, let me explain a little more
10 fully about this matter.

11 Q All right.

12 A Before being interned in Sugamo Prison I was
13 interrogated by the prosecution. At that time I was
14 asked the following question: Did not MUTO and myself
15 go to the Foreign Office and ask Foreign Minister TOGO
16 to have the wording of this note changed? The ques-
17 tion was a sudden one, and, furthermore, these diplo-
18 matic matters were not matters in which I had much
19 interest at the time, and, therefore, this matter had
20 entirely slipped out of my memory. On being asked
21 this sudden question I was unable to recall the cir-
22 cumstances, and I told the prosecutor to that effect.
23

24 When I entered Sugamo Prison I met Foreign
25 Minister TOGO and told him about that matter. Foreign
Minister TOGO told me: "I, myself, do not recall that

1 you and MUTO ever came to see me on that point." It
2 seemed that the prosecutor's question to me was based
3 on his interrogation of Foreign Minister TOGO, and,
4 therefore, I asked him why this question was put to
5 me. Then Foreign Minister TOGO told me: "YAMAMOTO's
6 first draft which he brought to me and his second
7 draft were quite different, and YAMAMOTO told me--"
8 that is Foreign Minister TOGO, "that this revision
9 had been made at the request of the ministries con-
10 cerned, and, therefore, I--" that is TOGO, "thought
11 that the revision had been made at the request of
12 the War and Navy Ministries, and that is why I replied
13 as I did." And that is how I was able to find out
14 that the fact that I was unable to remember ever having
15 gone to Foreign Minister TOGO to ask for a revision was
16 correct, and that actually I had not gone to Foreign
17 Minister TOGO to do so.

18 When the prosecutor was interrogating me
19 on this point I told him as I just said, that I be-
20 lieved that I had not gone to see Foreign Minister
21 TOGO, and that I did not think any revision had been
22 made. But on thinking the matter over I felt that
23 I had seen this draft somewhere. Then the trial com-
24 menced and I have forgotten the date when I contacted
25 my defense counsel, I was told by him that Captain

1 SHIBA had said such and such a thing, and then for
2 the first time I remembered what SHIBA had told me.
3 I may have asked Foreign Minister TOGO himself on
4 this point in Sugamo because, although I had no clear
5 recollection on that point, I wanted to know whether
6 I had actually visited him or not.

7 Also, what I told YAMAMOTO at the Liaison Con-
8 férence is something that I myself recalled in thinking
9 over this matter. And at the time since YAMAMOTO was
10 also one of the secretaries and MUTO also was another
11 secretary, MUTO must have heard it on the same occasion.
12 So in order to make sure if my memory served me right,
13 I asked MUTO on this point also. MUTO replied that he
14 did remember such an incident. And then I made sure
15 once more about SHIBA's recollection of the affair,
16 and finding out that it was sure, I wrote of it in my
17 affidavit.

18 That is all.
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1 Q Now, when was this that you took up with
2 YAMAMOTO the question of revising the draft?

3 A I don't recall for sure. Of course, I believe
4 it must have been in the beginning of December.

5 Q After the Liaison Conference of the first of
6 December -- Imperial Conference?

7 A Probably it was after. I believe it was after
8 that.

9 Q Now you have said in your affidavit that after
10 this wording was inserted in the draft it was related
11 to Mr. YAMAMOTO. I understand you now to say that you
12 don't know whether that was done by telephone or by
13 messenger.

14 A That is as I said. I forgot to tell you a
15 moment ago but I also asked YAMAMOTO on this point, think-
16 ing that he might remember -- he might possibly remember.

17 Q When was that?

18 A Quite some time ago.

19 Q Since the trial commenced?

20 A Yes.

21 Q About how long ago? Can you fix it more
22 definitely?

23 A Maybe even a year ago.

24 Q And what did he say?

25 A He said neither the first nor the last, that

1 that, neither my proposed revision of the draft nor my
2 talk with him at the Liaison Conference, was in his
3 memory, that he didn't remember anything at all.

4 Q After the preparation of this draft had been
5 either related or sent to Mr. YAMAMOTO did you ever
6 talk with him or anyone else in the Foreign Ministry
7 about the matter any other time, I mean, than the one
8 you have mentioned?

9 A No.

10 Q And when you attended the subsequent Liaison
11 Conference and found distributed a draft of a final
12 note without your clause inserted did you call attention
13 of the conference to that question at that time?

14 A No, I didn't call anybody's attention to it
15 except what I told you of what I did after the Liaison
16 Conference finished.

17 Q Had you mentioned the matter before the Liaison
18 Conference or did you mention it during the conference
19 to the Navy Minister?

20 A No.

21 Q Now, when you were interrogated by the members
22 of the International Prosecution Section prior or sub-
23 sequent to your confinement in Sugamo Prison, did you
24 not state that you had taken no part whatever in making
25 up the final draft or revisions thereto and had merely

1 read it and didn't even know when you had first read
2 it?

3 MR. ROBERTS: I object on the ground that this
4 question has been fully answered.

5 MR. BLAKENEY: The question as such has never
6 been put and I don't believe that his long explanation
7 a moment ago about the refreshing of his recollection
8 by other people has gone to this point. He stated
9 then that the prosecution had asked him a specific ques-
10 tion concerning his connection with the Foreign
11 Ministry and that, not then remembering the matter, he
12 had denied that it had occurred, whereas I am asking
13 now about his general testimony given to the prosecution
14 concerning his connection with the drafting or revision
15 of the final note.

16 ACTING PRESIDENT: It is a new question. Objec-
17 tion overruled.

18 MR. ROBERTS: I was about to say that in the
19 long and detailed explanation which this witness has
20 given I believe he has anticipated this question as well
21 as similar questions.

22 MR. BLAKENEY: Will you answer, please?

23 THE WITNESS: May I have the question repeated,
24 please?
25

MR. BLAKENEY: Let it be read.

(Whereupon, the Japanese reporter

1 read.)

2 A I don't recall at this moment the exact
3 language I used when I replied to the prosecutor but
4 I do know that I did reply on the premise that I knew
5 nothing at all at that time. I did not recall anything
6 at all on the point which he was questioning me about.

7 Q You mean on the general point of the prepara-
8 tion of that note?

9 A Yes.
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1 Q Were you in attendance at the Liaison
2 Conference in early December when the matter of the
3 manner of opening of hostilities against the United
4 States was discussed?

5 A What do you mean by manner?

6 Q The formalities to be followed with regard
7 to giving notice or otherwise.

8 A I don't think such questions were discussed.

9 Q Were you present at all the liaison con-
10 ferences in early December?

11 A I should have.

12 Q So far as you know you were?

13 A Yes.

14 Q Do you remember some discussion at one of
15 those conferences between the Foreign Minister TOGO
16 and the Vice-Chief of Naval General Staff ITO concern-
17 ing the giving of a notification to the United States
18 of America before the commencement of hostilities?

19 A I don't recall.

20 Q Do you remember that in reply to a question
21 to that effect by a member of the International Prose-
22 cution Section you gave the opposite answer?

23 A I have no recollection of having made such
24 a reply.

25 Q All right. Let me ask you specifically

1 whether you remember being interrogated on the 30th
2 of March, 1946, by a representative of the Interna-
3 tional Prosecution Section, at which time you were
4 asked the following question and gave the following
5 answer:

6 "Q Do you recall there was some discussion
7 between TOGO, the Foreign Minister, and Admirals
8 NAGANO and ITO regarding notification of the United
9 States prior to any attack?

10 "A I recall it."

11 Were you asked that question and did you
12 give that answer?

13 A I remember that question very clearly. I
14 also remember very clearly that my reply was exactly
15 opposite to that which you have just read.

16 Q Then the record of that reply of yours as
17 made by the interrogator who was talking to you at
18 that time is incorrect; is that so?

19 A If my reply is purported to be what you have
20 just read, then that was recorded wrongly, incorrectly.

21 Q Was the reply which you now say you gave to
22 the prosecutor at that time to the effect that you did
23 not recall any such conversation or discussion?

24 A Yes. I should like to add that you must be
25 under some misapprehension. I think if you will read

1 the transcription of the interrogation, the parts
2 immediately previous to and immediately following
3 this question and reply, you will see clearly that
4 this reply, if it was such as you have just read, is
5 incorrectly transcribed. The prosecutor who ques-
6 tioned me at that time was a Mr. Morgan, I believe.
7 He questioned me on the basis of Foreign Minister
8 TOGO's interrogation which he had in his hand, and
9 which he showed to me from time to time as he ques-
10 tioned me. I recall that very clearly.

11 Q All right. Now, you have referred to your
12 subsequent answers; so I want to ask you about one more
13 of them. I want to ask you whether the following
14 question was asked you by the interrogator and whether
15 you gave the following answer:

16 "Q What was the gist of the conversation between
17 TOGO, NAGANO, and ITO regarding notification prior to
18 any attack?

19 "A I don't know."

20 Was that question asked you and did you give
21 that answer?

22 A Yes.

23 Q Well, if you didn't recall any such conversa-
24 tion why did you say that you didn't know the contents
25 of it?

1 A I think I told the prosecutor at the time
2 in regard to the liaison conferences that the form in
3 which these conferences were conducted was such that
4 no special subjects were decided on beforehand. A
5 more or less free exchange of views was held, and
6 people participating in that conference often just
7 talked with their neighbors on various subjects; so
8 that not all the secretaries knew all that was going
9 on in the liaison conference. And, therefore, if one
10 of the participants in a liaison conference declared,
11 affirmed that he had said such and such a thing to
12 such and such a person at the conference someone else
13 who was present at the same conference could not deny
14 that for sure, with conviction. Speaking for myself,
15 I never recall having heard of anything in that nature,
16 and I did not hear anything in that nature.

17 Q Then your position now is that if it happened
18 you didn't know of it, and if this answer is recorded
19 in your interrogation it is incorrect; is that so?

20 A Yes, exactly.

21 IR. BLACKENEY: That is all for me.
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ACTING PRESIDENT: Mr. Logan.

1 MR. LOGAN: On behalf of KILLO.

2 ACTING PRESIDENT: Is this direct or cross-
3 examination?

4 MR. LOGAN: Direct.

5 DIRECT EXAMINATION (Continued)

6 BY MR. LOGAN:

7 Q Admiral, in paragraph 22, pages 15 and 16 of
8 your affidavit, you state that you were surprised when
9 TOJO was commanded to form a new cabinet and that you
10 were hard put to understand how that would aid American-
11 Japanese peace negotiations. Now, at that time, had
12 you had any talks with TOJO to ascertain just what his
13 intent was at that time?
14

15 A No.

16 Q And you did not know what took place at the
17 Senior Statesmen's Conference, I gather; is that
18 correct?

19 A Yes.

20 Q You did not know at that time that Admirals
21 YONAI and OKADA had opposed a navy man as a new Prime
22 Minister?

23 A I knew nothing about that.

24 Q In forming your opinion at that time, did you
25 take into consideration that TOJO was able to control

the army when peace negotiations became successful?

1

A I never thought of that.

2

Q Were you of the opinion at that time that a navy man could have controlled the army in the event that peace negotiations were successful?

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A I never thought of that, either.

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Q Have you changed your opinion today after hearing all these facts from what it was at the time they occurred as mentioned in your affidavit?

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A There is no difference. It is just as it is written there.

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Q Well, you did not know all these facts at that time, and you were hard put to understand them; but now that you know all these facts as revealed after the war was over and at the trial here, are you still of the same opinion, that you are hard put to understand it?

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A Shall I tell you how I felt at the time in relation to what I have written in my affidavit?

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Q No, Admiral, you have already stated in your affidavit how you felt at that time. I am wondering how you feel today, since you are now, by your own admission, in possession of facts which you did not have at that time.

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A Well, today, after hearing of all the various

1 facts presented before this Tribunal, I can only deepen
2 the feeling which I held at the time.

3 Q And yet at that time you formed your opinion
4 without knowing those facts, is that true?

5 A Yes.

6 MR. LOGAN: That is all.

7 ACTING PRESIDENT: Mr. Brannon.

8 MR. BRANNON: On behalf of the accused SHIMADA,
9 further direct.

10 DIRECT EXAMINATION (Continued)

11 BY MR. BRANNON:

12 Q The prosecution has alleged that Admiral
13 SHIMADA became Navy Minister because he was, and was
14 known to be, a supporter of the TOJO policy. Since
15 you were an officer under Admiral SHIMADA, I would
16 like to know if you confirm this, or deny it?

17 A I deny that.

18 Q One more question, Admiral. Was there any
19 element in the Japanese Navy that opposed the changing
20 of this final draft as suggested by you?

21 A This proposed change in the draft was a mere
22 suggestion on the part of the Naval Affairs Bureau.
23 We just happened to think of that and we suggested it
24 to the Foreign Ministry. It was not a strong assertion
25 on our part. The Navy Ministry's policy was that the

1 Foreign Office should bear full responsibility in
2 regard to these problems, and, therefore, try to have
3 as little to do with them as possible. We in the Naval
4 Affairs Bureau merely thought of this proposed change
5 and brought it to the attention of the director of the
6 American Bureau of the Foreign Office. So I don't
7 think I even told the Navy Minister about this. I do
8 believe, however, that my subordinate, before bringing
9 this proposed change to me, did contact someone in
10 the Navy General Staff who was in charge of such matters
11 in regard to this proposed change. And in view of the
12 attitude of the Navy Ministry and of the Navy General
13 Staff at the time, I don't believe there would have
14 been anyone who would have opposed it. I, myself,
15 passed it on to the Foreign Office without even bother-
16 ing to tell the Navy Minister about it because I felt
17 certain that he would be sure to agree.

18 MR. BRANNON: That is all, Mr. President.

19 ACTING PRESIDENT: Is there any further
20 examination by defense counsel?

21 MR. ROBERTS: No further examination. You
22 may cross-examine.

23 ACTING PRESIDENT: Commander Cole.
24
25

CROSS-EXAMINATION

1
2 BY COMMANDER COLE:

3 Q Admiral, during the years covered by the
4 Indictment in this case, and particularly between
5 1931 and 1945, were you mainly in navy headquarters
6 at Tokyo, or in naval duty at sea?

7 A During that period I did spend some time at
8 sea. I was also stationed for a time abroad, but for
9 the greater part I was in Tokyo.

10 Q Is it not a fact that during more than ten
11 years of the fourteen years from 1931 to 1945, you
12 were attached to navy headquarters at Tokyo?

13 A I think so.

14 Q You were promoted to rear admiral on 1 Decem-
15 ber 1939?

16 A Yes.

17 Q And you were promoted to vice-admiral, the
18 second highest rank in the Japanese Navy, on 1 Decem-
19 ber 1942, were you not?

20 A Yes.

21 Q And in addition to promotions, you received
22 a decoration in May, 1942, for services in the China
23 Incident, did you not?

24 A I forget the exact date, but it is as you say.
25

Q In your affidavit you list this decoration

1 and three other decorations which you received. In
2 addition to these four decorations, you received a
3 fifth decoration, from the Nazi Government on
4 9 February 1940, did you not?

5 A Yes.

6 Q Why did you omit this Nazi decoration from
7 your affidavit?

8 A Well, I have omitted several Japanese decora-
9 tions also. I merely listed those which I received
10 for services during war.

11 Q Is it not a fact that this decoration was
12 awarded to you for your services in connection with
13 the conclusion of the Anti-Comintern Pact?

14 A I, myself, did not know why I had been given
15 that decoration. But since I had nothing to do with
16 the conclusion of the Anti-Comintern Pact, I surmized
17 that it was otherwise -- that it was for something else
18 since I had nothing to do with the Anti-Comintern Pact.

19 Q Admiral, your many years in the navy's chief
20 political bureau, your promotions, decorations, and
21 activities, indicate that you were very successful in
22 giving to TOJO and his navy supporters such as SHIMADA,
23 your unquestioning obedience, is that not so?

24 MR. ROBERTS: I object to this question. It
25 assumes a state of facts not in evidence and calls for

1 a conclusion.

2 ACTING PRESIDENT: It is proper on cross-
3 examination. Objection overruled.

4 Q Will you answer, please?

5 A May I have the question repeated, please?

6 ACTING PRESIDENT: Repeat it in the morning.
7 We will adjourn until half-past nine tomorrow
8 morning.

9 (Whereupon, at 1600, an adjournment
10 was taken until Wednesday, 19 November 1947,
11 at 0930.)

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19 NOVEMBER 1947

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I N D E X

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Wednesday, 19 November 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARCHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in ses-
3 sion.

4 ACTING PRESIDENT: All the accused are
5 present except MATSUI, who is represented by coun-
6 sel. We have a certificate from the prison surgeon
7 at Sugamo certifying that he is ill and unable to
8 attend the trial today. The certificate will be
9 recorded and filed.

10 Mr. Cole.

11 MR. COLE: May it please the Tribunal, I
12 understand that immediately after the noon recess
13 yesterday your Honor inquired about further proceed-
14 ings in connection with Colonel ISHII.

15 ACTING PRESIDENT: Yes.

16 MR. COLE: On behalf of General MUTO it
17 has been decided that we will seek no further or
18 additional direct examination either by affidavit
19 or interrogatory or directly. That leaves us in the
20 position of waiting upon the prosecution for their
21 decision as to whether they want cross-examination,
22 and if so, whether by interrogatory or directly.
23 Upon speaking with Mr. Tavenner about it, I was ad-
24 vised that that decision in turn must await such time
25 as he can talk with Mr. Lopez, which will be probably

1
2 this weekend. I can give no further word, as I am
3 awaiting an answer from them.

4 ACTING PRESIDENT: I shall expect to hear
5 from Mr. Tavenner by next Monday.

6 MR. COLE: Yes, sir.

7 ACTING PRESIDENT: Commander Cole.

8 - - -
9 T A K A Z U M I O K A, an accused, resumed the
10 stand and testified through Japanese interpre-
11 ters as follows:

12 COMMANDER COLE: At the close of court yes-
13 terday the last question had not been answered.
14 "Will the Court Reporter repeat the question?"

15 (Whereupon the official Court
16 Reporter read as follows:)

17 "Q Admiral, your many years in the navy's
18 chief political bureau, your promotions, decora-
19 tions, and activities indicate that you were very
20 successful in giving to TOJO and his navy support-
21 ers such as SHIMADA your unquestioning obedience;
22 is that not so?"

23 THE WITNESS: That is completely contrary to
24 facts. In the first place, the Naval Affairs Bureau of
25 the Navy Ministry has nothing to do with politics.

~~As far as the navy is concerned, it has traditionally~~

1 not touched on political questions. Only the Minis-
2 ter of the Navy, as a minister of state, has the
3 authority to participate in political affairs; but
4 according to the past history and tradition of the
5 Japanese Navy, in accordance with that tradition,
6 I have not heard of a Navy Minister ever positively
7 engaging in political action.

8 Now next with regard to decorations. The
9 decorations mentioned by you, Mr. Prosecutor -- The
10 decoration to which you have referred, Mr. Prosecu-
11 tor, was granted to me for meritorious services in
12 connection with the China Affair. As you perhaps know,
13 the Order of the Golden Kite consists of seven classes,
14 Class 1 to Class 7. At that time when decorations were
15 granted for meritorious services, Navy Minister YONAI
16 was granted the order of the Golden Kite, Class 1.
17 Among navy officers who received decorations of Class
18 2 and Class 3 --

19 THE INTERPRETER: Correction: The number of
20 naval officers who were granted decorations of Class 2
21 and Class 3 numbered several hundreds.

22 I was granted Class 4 of the order, but the
23 decoration was granted -- received by me for services
24 rendered up to April, 1940, and as of the date of
25 April 15.

1 not touched on political questions. Only the Minis-
2 ter of the Navy, as a minister of state, has the
3 authority to participate in political affairs; but
4 according to the past history and tradition of the
5 Japanese Navy, in accordance with that tradition,
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12 connection with the China Affair. As you perhaps know,
13 the Order of the Golden Kite consists of seven classes,
14 Class 1 to Class 7. At that time when decorations were
15 granted for meritorious services, Navy Minister YONAI
16 was granted the order of the Golden Kite, Class 1.
17 Among navy officers who received decorations of Class
18 2 and Class 3 --

19 THE INTERPRETER: Correction: The number of
20 naval officers who were granted decorations of Class 2
21 and Class 3 numbered several hundreds.

22 I was granted Class 4 of the order, but the
23 decoration was granted -- received by me for services
24 rendered up to April, 1940, and as of the date of
25 April 15.

1 As there are many decorations, the actual
2 granting of these decorations are, as a general rule,
3 delayed. I received my decoration sometime later,
4 in 1942, and therefore this decoration has nothing to
5 do with anything that I did after April, 1940. The
6 decoration, furthermore, has nothing to do with Prime
7 Minister TOJO or Navy Minister SHIMADA. Now, as to my--

8 THE INTERPRETER: Correction: Next with
9 regard to my promotion, due to the lapse of a certain
10 period of service, I was promoted to Vice-Admiral,
11 together with twenty others of my colleagues, and in
12 connection with this promotion there were no special
13 circumstances.

14 Next with regard to my activities, I have
15 performed the duties of Chief of the Naval Affairs
16 Bureau in accordance with the established regulations
17 governing the functions of the Navy Ministry and my
18 department, and pursuant to the orders and instruc-
19 tions and at the supervision of my chief, the Minister
20 of the Navy, performing my duties faithfully in
21 accordance with the regulations and orders --

22 THE INTERPRETER: Correction: Before "super-
23 vision" insert -- After "supervision" insert "super-
24 vision of the Vice-Minister."

25 ACTING PRESIDENT: I think you have fully

1 answered the question that was asked you and gone
2 far beyond it.

3 MR. ROBERTS: If your Honor please, not
4 meaning to be disrespectful, I would like to point
5 out that the question includes his promotions, his
6 decorations, and his activities, and states that they
7 indicate certain conclusions. This witness is simply
8 attempting, I believe, to answer and show what those
9 activities actually indicated.

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1 ACTING PRESIDENT: Have you anything further
2 you want to say?

3 THE WITNESS: Yes.

4 ACTING PRESIDENT: Go ahead, and make it as
5 short as possible.

6 A (Continuing) Moreover, I have never received
7 any direction or order from anyone other than the
8 Minister of the Navy, nor was I in a position in which
9 I had to receive directions and orders from any other
10 party. For that reason I have never received any
11 orders from Prime Minister TOJO. Furthermore, I do
12 not recognize that the navy as a whole supported General
13 TOJO or supported the TOJO Cabinet. Furthermore, I have
14 not contacted anybody outside of the scope of my official
15 functions.

16 THE INTERPRETER: Correction: Furthermore, I
17 have never contacted or had any intercourse with
18 political persons outside the scope of my own official
19 functions.

20 THE MONITOR: The previous answer should be
21 deleted.

22 Q Admiral, on page 37 of your affidavit, para-
23 graph 45, you state that there was no basis for the
24 rumor that you had power and influence among a so-called
25 group. What group did you refer to?

1 ACTING PRESIDENT: Have you anything further
2 you want to say?

3 THE WITNESS: Yes.

4 ACTING PRESIDENT: Go ahead, and make it as
5 short as possible.

6 A (Continuing) Moreover, I have never received
7 any direction or order from anyone other than the
8 Minister of the Navy, nor was I in a position in which
9 I had to receive directions and orders from any other
10 party. For that reason I have never received any
11 orders from Prime Minister TOJO. Furthermore, I do
12 not recognize that the navy as a whole supported General
13 TOJO or supported the TOJO Cabinet. Furthermore, I have
14 not contacted anybody outside of the scope of my official
15 functions.

16 THE INTERPRETER: Correction: Furthermore, I
17 have never contacted or had any intercourse with
18 political persons outside the scope of my own official
19 functions.

20 THE MONITOR: The previous answer should be
21 deleted.

22 Q Admiral, on page 37 of your affidavit, para-
23 graph 45, you state that there was no basis for the
24 rumor that you had power and influence among a so-called
25 group. What group did you refer to?

1
2 A I am not pointing to any particular or
3 specific group; I am just referring to various individ-
4 uals. Furthermore, I do not know what these -- any
5 specific groups actually did, what activities they en-
6 gaged in.

7 Q Is it not a fact that while you were Chief of
8 Section 1 and subsequently Chief of the Naval Affairs
9 Bureau, there was at that time a group of young army
10 and navy officers who favored the use of force in deal-
11 ing with China?

12 A There may have been, but I knew of no specific
13 instances.

14 Q Together with other members of the young officers'
15 group you had meetings and carried on secret plans con-
16 nected with the China Affair, did you not?

17 A I have no recollection.

18 Q Is it not a fact that in June 1938, while you
19 were Chief of Section 1, Naval Affairs Bureau, you and
20 General KAGESA of the Military Affairs Bureau and a
21 certain KISHI dined together every week and talked on
22 various matters concerning the China Affair?

23 A I now recall by the prosecutor's last question
24 that KISHI at that time was private secretary to Prime
25 Minister KONOYE. KAGESA at that time was either a
~~member of the Military Affairs Bureau of the War Office~~

1 or Chief of the Military Affairs Section of the mili-
2 tary Affairs Bureau.

3 At that time, in accordance with the orders of
4 Prime Minister KONOYE, Mr. KI-HI met once a week with
5 the Chief of the Naval Affairs Bureau and the Chief
6 of the Military Affairs Bureau for the purpose of ex-
7 changing information on various topics, and at that
8 time I attended these meetings as the Chief of the
9 Naval Affairs Bureau, with the permission of the Vice-
10 Minister of the Navy.

11 At this date, I do not recall what actually
12 was discussed at these meetings, but in view of the
13 fact that the China Incident at that time was the fore-
14 most question confronting Japan, I presume that we heard
15 many explanations and reports with regard to China from
16 KAGESA, who was a China expert.

17 MR. ROBERTS: I am informed that there is a
18 mistranslation in his answer, as being Chief of the
19 Military Affairs Bureau at that time. I ask that it be
20 referred for correction.

21 ACTING PRESIDENT: What office did you hold at
22 that time?

23 THE WITNESS: I was Chief of Section 1 of the
24 Naval Affairs Bureau.
25

1 Q And was not Major General KAGESA the Chief of
2 the similar section of the Military Affairs Bureau at
3 that time?

4 A I think so, but I do not remember. He might
5 have been just a member of the bureau.

6 Q Did not KISHI call this gathering a meeting
7 of the three ministers?

8 A I do not know. I don't think that was so.

9 Q In June 1938, at the time of these meetings,
10 did not KISHI state that KAGESA would bring over a
11 certain Kao Tsung-wu, who until recently had been Chief
12 of the Asia Bureau of the Chiang Government, and confine
13 him in the Kaikosha, or the army club?

14 A He might have, but I do not remember.

15 Q And did not KISHI state as to this scheme de-
16 vised by the young officers that it should be kept a
17 secret and should not be mentioned to the War Minister?

18 A I do not remember.

19 Q In your affidavit, page 37, paragraph 45, you
20 state that as Chief of the Naval Affairs Bureau you
21 had no authority to determine or approve of matters of
22 state policy. Is that correct?

23 A Yes, exactly.
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1 Q Is it not a fact that as early as 1938 you
2 as Chief of the First Section of the Naval Affairs
3 Bureau were already participating in conferences with
4 representatives of the Army Military Affairs Bureau
5 in order to expedite the performance of matters in
6 relation to China?

7 MR. ROBERTS: May I object on the ground
8 that the question is not definite. What "performance
9 of matters" means I do not know and I am not sure the
10 witness will know either. I object to the form of the
11 question.

12 ACTING PRESIDENT: It is rather general.
13 Can you not specify more particularly?

14 Q Do you recall having a conference with
15 KAGESA of the Army Military Affairs Bureau on
16 30 August 1938 concerning the plans for the capture
17 of Canton?

18 A I do not remember. I do not think that was
19 possible because such a matter as the capture of Canton
20 would be outside the province of the Military Affairs
21 Bureau or the Naval Affairs Bureau. Correction:
22 Outside of the province of the duties of the Chief
23 of Section One of the Naval Affairs Bureau.

24 Q As a result of that conference you and KAGESA
25 drew up a plan for the capture of Canton, did you not?

1 A As I said before, that couldn't be possible
2 because such matters were outside the scope of my
3 duties.

4 Q Would it refresh your recollection if I
5 recalled to you that you and KAGESA decided that the
6 capture of Canton was only the application of over-
7 all policies and hence could be carried out without
8 prior consideration by the Five Ministers' Conference?

9 A No, no such decision was ever made.

10 Q And did not you and KAGESA decide that to
11 leave the Canton operations to the Five Ministers'
12 Conference might give rise to the charge that the
13 prerogative of the Supreme Command had been violated?

14 A Such decisions cannot be made by us.

15 COMMANDER COLE: May the witness be shown
16 IPS document 2779?

17 (Whereupon, a document was handed to
18 the witness.)

19 Q Will the witness examine this document and
20 state whether it appears to be a record of the conver-
21 sation between himself and General KAGESA on 30 August
22 1938 concerning the capture of Canton?

23 A I have seen the document.

24 Q Are the facts stated in this document sub-
25 stantially correct?

1 A May I have the question repeated? I
2 couldn't hear it.

3 THE MONITOR: Japanese court reporter.
4 The Japanese court reporter didn't hear
5 it either so we will do it again.

6 A (Continuing) I have no recollection what-
7 soever with regard to this. I only presume after
8 having glanced through this document that it appears
9 to have been some information imparted by KAGESA.

10 Q Does it refresh your recollection if I
11 recall to you that this plan for the capture of
12 Canton was to have the land forces land on the east
13 side of Bias Bay in order to avoid friction with
14 Britain?

15 A No, I have absolutely no knowledge of that.

16 Q Do you recognize the initials of the officials
17 of the East Asia Bureau and Foreign Ministry which
18 appear in the margin?

19 A Yes.

20 Q Do you have any reason to believe that this
21 document, which is part of the official archives of
22 the Japanese Foreign Office, is not correct?

23 A My name appears in this document but I have
24 no recollection of the document. As to the contents,
25 it does not say that it was a decision reached as a

1 A May I have the question repeated? I
2 couldn't hear it.

3 THE MONITOR: Japanese court reporter.
4 The Japanese court reporter didn't hear
5 it either so we will do it again.

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7 soever with regard to this. I only presume after
8 having glanced through this document that it appears
9 to have been some information imparted by KAGESA.

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11 recall to you that this plan for the capture of
12 Canton was to have the land forces land on the east
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17 of the East Asia Bureau and Foreign Ministry which
18 appear in the margin?

19 A Yes.

20 Q Do you have any reason to believe that this
21 document, which is part of the official archives of
22 the Japanese Foreign Office, is not correct?

23 A My name appears in this document but I have
24 no recollection of the document. As to the contents,
25 it does not say that it was a decision reached as a

1 result of a conference among us, and if you glance
2 through the contents you will note that this is
3 nothing more than information heard. This is only
4 my presumption but it appears to me from this docu-
5 ment that KAGESA merely imparted information with
6 regard to decisions made by the War Ministry and
7 that this is a record of the report made by him; but
8 I am totally unfamiliar -- I was then and even now
9 am totally unfamiliar with the operational conditions
10 at that time and because of that I cannot say whether
11 the contents of this document are true or false.

12 Q You deny that the conversation between
13 yourself and OKA which is stated in the document to
14 have taken place on August 30, 1938 ever occurred?

15 THE MONITOR: Mr. Prosecutor, you said--

16 COMMANDER COLE: Change that to "yourself and
17 KAGESA."
18

19 A I have absolutely no recollection of it.

20 Q On page 6 of your affidavit, paragraph 12--

21 ACTING PRESIDENT: Are you through with the
22 question about that document?

23 COMMANDER COLE: Strike out that question.

24 ACTING PRESIDENT: What is the answer to my
25 question?

COMMANDER COLE: I have one more question,

1 your Honor.

2 Q Do you deny the authenticity of this
3 document?

4 A I can neither deny nor confirm this docu-
5 ment. I have no recollection. I have no recollec-
6 tion of the contents and I have no familiarity with
7 the matters contained therein.

8 COMMANDER COLE: IPS document 2779 is offered
9 in evidence.

10 MR. ROBERTS: We object on the ground that
11 it has not been identified.

12 THE PRESIDENT: The witness has not accepted
13 that document as true and authentic. The document
14 will be marked for identification only.

15 CLERK OF THE COURT: Prosecution document
16 2779 will receive exhibit No. 3474 for identification
17 only.

18 (Whereupon, the document above
19 referred to was marked prosecution exhibit
20 No. 3474 for identification only.)
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1 Q On page 6 of your affidavit, paragraph 12,
2 you state that the Naval Affairs Bureau performed
3 routine duties under the supervision of the Navy Vice
4 Minister and the Director of the Naval Affairs Bu-
5 reau was never in a position to assume any independ-
6 ent responsibility vis-a-vis outside contacts. Do
7 you mean that for all your official acts as Chief
8 of the Naval Affairs Bureau the defendant SHILADA
9 alone is responsible?

10 A With regard to any government regulations
11 governing the organization and functions of govern-
12 ment departments, the chief of bureau is merely --
13 constitutes merely the staff of the minister of the
14 department, and, therefore, it would amount to that
15 legally.

16 Q The Bureau of Naval Affairs was the politi-
17 cal and liaison branch of the Navy Ministry, was it
18 not?
19

20 A As I told you before, there are no politi-
21 cal functions in the Naval Affairs Bureau.

22 Q The Naval Affairs Bureau controlled the
23 public relations of the whole Navy, did it not?

24 A Not all.

25 Q What other branch of the Navy handled public
relations?

1 A All bureaus were the same.

2 Q After you assumed office as Chief of the
3 Naval Affairs Bureau on 15 October, 1940, is it not
4 true that you acted in close liaison with General
5 MUJO, the Chief of the Military Affairs Bureau in
6 connection with Imperial Conferences?

7 A Whether it was close or not is another mat-
8 ter. Contacts were made on matters which were with-
9 in our scope of duties.

10 Q Were you invited by the Emperor to attend
11 the Fourth Imperial Conference on 13 November, 1940?

12 A May I have the date repeated?

13 (Whereupon, the Japanese court
14 reporter read.)

15 A (Continuing) Probably so.

16 Q The purpose of the Conference was to decide
17 on proposals relative to the settlement of the China
18 Incident, was it not?

19 A I do not quite remember.

20 Q Was it not a fact that the invitation of the
21 Emperor for you to attend was made upon the request
22 of the Cabinet?

23 A The circumstances, as I understand them,
24 were these: The procedure by which any subject in
25 Japan could appear in the presence of the Emperor

1 was difficult. No one by his own free will appeared
2 in the Imperial presence. And in my understanding,
3 even when secretaries who would be in attendance
4 at Imperial Conferences or at an Imperial Conference --
5 their names had to be channeled through the Ministry
6 of the Imperial Household as a matter of formal pro-
7 cedure.

8 Q Is it not a fact that it was decided at this
9 time that since Imperial Conferences should consist,
10 on principle, of those who bear responsibility for
11 giving advice to his Majesty, the Chiefs of the
12 Bureau of Naval Affairs and Bureau of Military Af-
13 fairs were invited to join the Imperial Conferences
14 in addition to the usual members in the past?

15 A I do not think so. I think secretaries
16 were always in attendance in the past.

17 COLLEANDER COLE: May the witness be shown
18 exhibit 3455 which was previously marked for identi-
19 fication?

20 (Whereupon, a document was handed
21 to the witness.)

22 Q Will you examine this document and state
23 whether, on page 6 of the Japanese copy, it does not
24 state that you, as Chief of the Naval Affairs Bureau,
25 attended the Imperial Conference of 13 November, 1940

1 by Imperial order.

2 A No, I don't see that on page 6. Just a
3 minute, please. Yes, now I have found it.

4 Q In view of the fact that this is the first
5 Imperial Conference you had attended, in view of the
6 fact that it was upon the command of the Emperor,
7 I assume that you would remember attending this con-
8 ference; is that correct?

9 A I think I attended that meeting.

10 COL. ANDER COLE: May exhibit 3455 be re-
11 ceived in evidence?

12 MR. ROBERTS: There has been no identifi-
13 cation from this witness as to the authenticity or
14 the correctness of the contents of this document.
15 Therefore, I object to it.

16 ACTING PRESIDENT: The offer is refused at
17 this time.

18 Q Admiral, are the facts stated in this docu-
19 ment substantially correct?

20 A No, I cannot. This is entirely a matter of
21 the Imperial Household department, and it is of a
22 nature that I have never heard about before.

23 Q And in so far as the document states that
24 you attended this Imperial Conference, it is correct,
25 is it not?

1 A I think I attended this meeting because I
2 attended most Imperial Conferences.

3 Q Does it refresh your recollection if I re-
4 call to you the fact that this Imperial Conference
5 was held at 2 p.m., November 13, 1940 in the East
6 No. 1 Room of the Palace?

7 A Well, these Imperial Conferences were prac-
8 tically all held in the same room, so I cannot say.

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1 Q Do you have any reason to believe that this
2 document isn't authentic?

3 A This is a matter referring to the Imperial
4 Household Department so that is beyond the scope of my
5 knowledge.

6 COMMANDER COLE: I have no more questions on
7 that document.

8 Q On January 19, 1939, you were appointed a govern-
9 ment commissioner on matters related to the Navy Ministry
10 in the Diet, were you not?

11 A In 1939 did you say?

12 Q Yes.

13 A Yes, as Chief of the First Section of the Naval
14 Affairs Bureau.

15 Q In this position you acted as liaison between
16 the Navy and the Diet, did you not?

17 A No.

18 Q What were your duties?

19 A My duties were to provide materials and infor-
20 mation to explainers whenever questions arose in the
21 Diet which were related to matters in the charge of
22 the Ministry of the Navy.
23

24 Q You were reappointed to this position in 1940,
25 1941, 1942, and 1943, were you not?

A Yes. This is a duty attached to the Chief of

the Military Affairs Bureau -- Naval Affairs Bureau.

1 Q In 1941 did you have anything to do with the
2 reorganization of the I.R.A.A.?

3 A I have no recollection.

4 Q Is it not a fact that in March 1941 you and
5 General MUTO drafted a joint plan for the reorganization
6 of the I.R.A.A.?

7 A No, I do not recall.

8 Q Is it not also a fact that at that time you
9 were strongly opposed to the weakening of the I.R.A.A.
10 and favored a single party system?

11 A No.

12 COMMANDER COLE: May the witness be shown IPS
13 document 3249?

14 (Whereupon, a document was handed to
15 the witness.)

16 Q Will you examine this document and state whether
17 it is an article from the Asahi Shimbun, dated 26 March
18 1941, which states that you and General MUTO were draft-
19 ing a joint plan for the reorganization of the I.R.A.A.?
20 Are the facts stated in this document -- in this news-
21 paper article substantially correct?

22 A I have absolutely no recollection.
23
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1 Q Do you deny that you and General MUTO pre-
2 pared such a joint plan?

3 A With regard to the Imperial Rule Assistance
4 Association I was unfamiliar with it at the time of
5 its establishment because I was not then Chief of the
6 Naval Affairs Bureau. It was after I became Chief
7 of the Naval Affairs Bureau that I became one of
8 the councillors, if I am correct, of that body.
9 I was asked to participate -- correction: I was
10 asked by the Vice Minister to become one of the coun-
11 cillors of this organization because the government
12 as a whole was to participate in the activities of the
13 association. But as far as the Navy was concerned,
14 it had little interest in the I.R.A.A.

15 THE INTERPRETER: Slight correction: Strike
16 out "asked by the Vice Minister of the Navy" and
17 insert "the Navy was asked that I be made one of the
18 councillors."

19 A (Continuing) And, therefore, there is no
20 instance of the Navy engaging in any positive activi-
21 ties with reference to the I.R.A.A.. Hence, matters
22 of the kind referred to in this document is completely
23 outside of my recollection.

24 Q Does it refresh your recollection if I recall
25 to you that you and General MUTO in your capacities

1 as Chief of the Naval Affairs Bureau and Chief of the
2 Army Affairs Bureau had an interview with Cabinet
3 Secretary TOMITA on or about March 26 at which a de-
4 tailed account of the government's plan of reorganiza-
5 tion of the I.R.A.A. was given?

6 A Did you say the government's reorganization
7 plan?

8 Q Yes.

9 A No, there was absolutely no such case.

10 Q Do you deny that you as Chief of the Naval
11 Affairs Bureau had any part in this joint Army and
12 Navy plan for the reorganization of the I.R.A.A.?

13 A What appears on this newspaper is completely
14 outside the pale of my recollection.

15 Q Is it not a fact that you and General MUTO
16 presented this joint plan to the Cabinet Executive
17 Secretary TOMITA on or about 27 March 1941?

18 A As I have said before I had hardly any
19 interest in the I.R.A.A. that I have no recollections
20 concerning it.

21 COMMANDER COLE: May the witness be shown
22 IPS document 3250?

23 (Whereupon, a document was handed to
24 the witness.)

25 Q Will you state whether this is an article

1 from the Asahi Shimbun of 28 March 1941 concerning
2 the Army and Navy joint plan of reorganization of the
3 I.R.A.A.?

4 A Yes, something to that effect is written in
5 this article.

6 ACTING PRESIDENT: We will recess for fifteen
7 minutes.

8 (Whereupon, at 1045, a recess was
9 taken until 1100, after which the proceedings
10 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Commander Cole.

4 BY COMMANDER COLE (Continued):

5 Q Admiral, are the facts stated in this news-
6 paper article substantially correct?

7 A As I have said before, I cannot conceive of
8 my ever having participated in matters pertaining to
9 the IRAA to that extent because of my lack of interest.
10 And, therefore, there is nothing in my recollection
11 pertaining to this matter. Furthermore, I do not
12 know by what circumstances such an article ever
13 appeared in the newspaper.

14 Q Did not you and General MUTO interview
15 Cabinet Secretary TOMITA in the Prime Minister's
16 residence on the 27th of March, 1941 and present the
17 joint plan at that time?

18 A I have no such recollection.

19 Q Does it refresh your recollection if I
20 recall to you that at this interview you and General
21 MUTO strongly urged that TOMITA be made the central
22 figure in the IRAA in order to engage actively in
23 campaigning?
24

25 A I do not think there was anything of the kind.

Q After the first newspaper article appeared in

1 the Asahi newspaper did you notify the publishers that
2 they were publishing erroneous statements regarding
3 your political activities?

4 A As a matter of fact, I am seeing this article
5 for the first time now. At that time I had -- this
6 article did not even attract my attention.

7 Q You have previously testified, I believe,
8 that according to the traditions of the Japanese Navy
9 officers were not to engage in politics?

10 A Yes, exactly.

11 Q After both of these newspaper articles had
12 been published, did you ever protest against these
13 articles implicating you in political activities?

14 A As I have said before, I have never seen
15 this article before, and I do not think that I did any-
16 thing of the kind.

17 Q Irrespective of whether you ever saw either
18 of these newspaper articles before, do you deny that
19 all of the facts contained in them are false -- pardon
20 me, **are** true?

21 A As I have said before, I have no recollection
22 whatsoever; and as I have told you, I do not know under
23 what circumstances such an article ever appeared
24 in the newspapers. It is difficult for me to under-
25 stand those circumstances, if any.

1 Q The Naval Affairs Bureau acted as liaison
2 between the general staff and the cabinet, did it not?

3 A No.

4 Q It was the channel through which the navy
5 made known its policies to the cabinet and vice versa,
6 was it not?

7 A Do you mean the Naval Affairs Bureau?

8 Q Yes.

9 A No.

10 Q On page 29 of the English copy of your
11 affidavit you state that you never attended any
12 cabinet meetings nor were you privileged to do so.
13 When you said that you were not privileged to attend
14 did you mean that as Chief of the Naval Affairs Bureau
15 you were disqualified to attend such cabinet meetings
16 or that you were never invited to attend?

17 A I had no qualifications nor did I ever
18 receive an invitation to attend.

19 Q Is it not a fact that you and General MUTO,
20 Chief of the Army Military Affairs Bureau, attended
21 an extraordinary session of the cabinet on 29 August
22 1941?
23

24 A I do not remember.

25 COMMANDER COLE: May the witness be shown
IPS document 2534-E?

1 Q Will the witness examine this document and
2 state whether it is an article from the Tokyo Nichi
3 Nichi of 30 August 1941?

4 A This document simply states that it is an
5 excerpt from the Tokyo Nichi Nichi. That is all.
6 Now, speaking of the contents of this, this is not
7 a meeting of the cabinet.

8 Q Does it not appear in this newspaper
9 article that you attended the cabinet meeting of
10 29 August 1941?

11 A No.

12 IR. ROBERTS: Just a minute, please. I
13 object on the ground that the witness has stated that
14 what he was looking at was an excerpt and not the
15 newspaper article itself.

16 Q Will the witness examine the photostatic
17 copy of that newspaper excerpt?

18 A I was slightly mistaken before. As I see
19 this photostatic copy it says there was an extra-
20 ordinary meeting of the cabinet following a cabinet
21 meeting. I think this is erroneous reporting on the
22 part of the newspaper because this is a peculiar
23 expression, "an extraordinary meeting of the cabinet
24 following a cabinet meeting."

25 Q Does it refresh your recollection if I recall

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1 to you that at this cabinet meeting Foreign Minister
2 TOYODA reported in detail on the latest diplomatic
3 negotiations with the United States in the presence
4 of yourself and General MUTO?

5 A I have no recollection, but that is not so
6 if you would read this document.

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1 Q Do you deny that you attended such a cabinet
2 meeting?

3 A I do not think this was a cabinet meeting.

4 Q Irrespective of whether it was a cabinet meet-
5 ing, do you deny that you attended a meeting of the
6 members of the cabinet at which Foreign Minister TOYODA
7 gave a report on the Japanese-American diplomatic
8 negotiations?

9 A I do not think that I was ever in attendance
10 at a meeting in which Foreign Minister TOYODA made a
11 report to his cabinet colleagues.

12 Q During the negotiations prior to Pearl Harbor,
13 did you oppose withdrawal of Japanese troops from China?

14 A I was not opposed to the withdrawal of Japanese
15 troops.

16 ACTING PRESIDENT: Before you proceed any
17 further, I see you are getting away from these newspaper
18 articles. Does counsel wish the last three newspaper
19 articles marked for identification?

20 MR. ROBERTS: I think for future record they
21 should be so marked.

22 ACTING PRESIDENT: They will be so marked, then.

23 CLERK OF THE COURT: The March 1941 issue of
24 the Asahi Shimbun will receive exhibit No. 3475 for
25 identification only. IPS document 3249, being an

1 excerpt therefrom, will receive exhibit No. 3475-A.
2 IPS document 3250, the second excerpt therefrom, will
3 receive exhibit No. 3475-B. Prosecution document
4 2534-E will receive exhibit No. 3476; all of said
5 exhibits being for identification only.

6 (Whereupon, the document above
7 referred to were marked prosecution exhibits
8 No. 3475, 3475-A, 3475-B, and 3476, respec-
9 tively, for identification.)

10 Q On the contrary, is it not a fact that you
11 were strongly insistent upon Japanese troops remaining
12 in China?

13 A No, there was no such case.

14 Q You had a meeting with General MUTO on
15 6 September 1941 at the official residence of the
16 Foreign Minister at which you and General MUTO discussed
17 the basic conditions of settlement of the Sino-Japanese
18 peace, did you not?

19 A I have no clear recollection, but there were
20 frequent gatherings at the Foreign Office for the
21 purpose of discussing the plan formulated by the Foreign
22 Office, and, therefore, I believe that this was one of
23 them.

24 Q And one of the terms agreed upon by you and
25 General MUTO at that conference was that Japanese troops

1 should remain stationed in Amoy and Hainan Island, as
2 well as in certain districts of the Mongolian area and
3 North China, is that not correct?

4 A I do not know the text of the decision to which
5 you refer, but that may have been the case.

6 COMMANDER COLE: May the witness be shown
7 exhibit 3456?

8 (Whereupon, a document was handed
9 to the witness.)

10 Q Will you examine this document and state whether
11 it is not the basic conditions for settlement of the
12 Sino-Japanese peace as discussed in a conference between
13 you and General MUTO on September 6, 1941?

14 A No, that is not so.

15 Q Directing your attention to paragraph No. 4,
16 does that not state that for the purpose of joint defense
17 Japanese troops shall be stationed in Amoy and Hainan
18 Island, as well as in certain districts of Mongolia-
19 Sinkiang area and North China?

20 A Yes, there is such a term.

21 Q Is it not also a fact the same condition and
22 terms were included in exhibit 1245-F, which was the
23 document containing the proposals of the Japanese
24 Government delivered to Ambassador Grew on September 22,
25 1941?

1 A No, I have no clear recollection,

2 Q Do you admit that the conference mentioned
3 in this document between yourself and General MUTO
4 took place on September 6, 1941?

5 A I do not recall the date or the contents.

6 Q Is it not a fact that the basic terms dis-
7 cussed by you and General MUTO as they appear in this
8 exhibit represent the maximum concessions beyond which
9 the Japanese Government never went in its negotiations
10 with the United States?

11 A It says here that MUTO and I had conferred,
12 but such a thing was impossible in so far as this
13 matter was concerned. I think this is a Foreign Office
14 plan discussed at a meeting sponsored by the Foreign
15 Office with either the Vice-Minister or the Director
16 of the American Bureau of the Foreign Office presiding,
17 and if it is that conference, I think that I was in
18 attendance there. Although I do not clearly recall
19 its contents, it seems that the prosecutor's question
20 intimated that this was the final plan. I do not
21 think that was so.
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1 Q As I understand you, Admiral, you state
2 that you were present at this conference and you
3 do remember paragraph 4 in relation to the stationing
4 of Japanese troops in China; is that correct?

5 A No, I did not state so. I told you that I
6 do not recall the contents of this document, that I
7 do not recall the date nor the conference itself, and
8 although this document represents me and MUTO as
9 having conferred and having agreed on the terms set
10 forth therein, if you observe the form in which this
11 document is made out, it appears to me to be a Foreign
12 Office plan in connection with which a conference
13 was sponsored by the Foreign Office.

14 Q In other words, you mean that at a conference
15 between the Army and the Navy liaison chiefs, called
16 by the Foreign Ministry to find out what the joint
17 army and navy terms of peace for China were, in that
18 case the Foreign Office prepared the terms of peace;
19 is that correct?

20 A I said that it appears to be a plan formulated
21 by the Foreign Office, and that representatives of
22 the Army and the Navy were called into consultation
23 to discuss the plan.

24 Q Is it not true that the basic decision
25 regarding the stationing of troops in China, which was

1 arrived at at this conference, was the chief obstacle
2 to the successful conclusion of the Japanese-American
3 negotiations? Is that not so?

4 A No, not only this.

5 Q On 6 February, 1941, you were appointed to
6 assist the Imperial Commissioner in arbitrating the
7 dispute regarding the border of Indo-China and Siam,
8 were you not?

9 A Yes, probably I was appointed to this
10 commission.

11 Q Is it not true that four months later, on
12 25 June, 1941, you participated in the liaison
13 conference at which it was decided to station troops
14 in Indo-China and Siam and to acquire naval and air
15 bases there by diplomacy, if possible, or otherwise
16 by armed force?

17 A Well, I do not recall the contents and I
18 do not know whether that is entirely correct or
19 otherwise, but I attended a liaison conference which
20 discussed matters similar to that.

21 Q Evidence has been introduced before the
22 Tribunal to show that the total number of liaison
23 conferences which you attended during the period from
24 13 January, 1941 to 30 June, 1941 was 24. Do you
25 accept that total as substantially correct?

1 A I heard that total, but I do not think it
2 is correct.

3 COMMANDER COLE: In connection with the
4 last two answers of the witness, prosecution wishes
5 to refer the Tribunal to exhibit 1103, at record
6 page 10,062.

7 Q After that period, that is, between June 30,
8 1941 and up to and including 8 December, 1941, how
9 many liaison conferences did you attend?

10 A How many liaison conferences I attended I
11 do not recall, but I think that I attended practically
12 all of them. However, there were times when I was
13 ill and liaison conferences were held during my
14 absence because of that illness, and there have been
15 quite a number of times when I was absent because
16 of that reason. Especially, I might point out, that
17 while I was abed at home during illness -- as a result
18 of illness -- and a liaison conference was held at
19 such a time, there were times when I had to laugh out
20 loud because there were press reports to the effect
21 that I had attended a liaison conference which I had
22 not attended on account of illness. So, if the
23 prosecution has checked up the number of my attendances
24 according to newspaper reports, the prosecution would
25 be mistaken.

1 Q On page 26 of your affidavit you say that
2 you attended Imperial and liaison conferences with
3 the exception of three or four times due to illness;
4 is that correct?

5 A Yes.

6 Q During 1941 the military forces, including both
7 the Army and the Navy, were using their representatives
8 on the liaison conferences not only to interfere in
9 politics, but to exercise even such control as to
10 control and direct politics, is that not true?

11 MR. ROBERTS: I object on the ground that
12 the question is argumentative.

13 ACTING PRESIDENT: If I understood the question
14 correctly, you are asking him if some statement made
15 in his affidavit is true.

16 COMMANDER COLLE: No, your Honor. I was asking
17 him to state a fact as to the liaison conferences
18 which should be in his knowledge as a member of those
19 conferences. The question concerned whether the
20 liaison conferences were being used by the Army and
21 Navy to interfere in politics.

22 MR. ROBERTS: It is certainly more of a
23 statement by the prosecutor than a question.

24 ACTING PRESIDENT: Reporter, read the question
25 back, please.

1 Q On page 26 of your affidavit you say that
2 you attended Imperial and liaison conferences with
3 the exception of three or four times due to illness;
4 is that correct?

5 A Yes.

6 Q During 1941 the military forces, including both
7 the Army and the Navy, were using their representatives
8 on the liaison conferences not only to interfere in
9 politics, but to exercise even such control as to
10 control and direct politics, is that not true?

11 MR. ROBERTS: I object on the ground that
12 the question is argumentative.

13 ACTING PRESIDENT: If I understood the question
14 correctly, you are asking him if some statement made
15 in his affidavit is true.

16 COMMANDER COLL: No, your Honor. I was asking
17 him to state a fact as to the liaison conferences
18 which should be in his knowledge as a member of those
19 conferences. The question concerned whether the
20 liaison conferences were being used by the Army and
21 Navy to interfere in politics.

22 MR. ROBERTS: It is certainly more of a
23 statement by the prosecutor than a question.

24 ACTING PRESIDENT: Reporter, read the question
25 back, please.

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(Whereupon, the last question was
read by the official court reporter.)

ACTING PRESIDENT: The objection is sustained
to the question in that form.

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1 Q As a matter of fact, the decisions of the
2 Liaison Conferences had such weight during that
3 period that, practically speaking, they were always
4 approved by the Cabinet and the Imperial Conference,
5 is that not so?

6 A Generally, yes.

7 MR. ROBERTS: Just a minute, please.

8 ACTING PRESIDENT: What was the reply of
9 the witness?

10 THE MONITOR: "Generally, yes."

11 THE WITNESS: I have not completed my reply.

12 ACTING PRESIDENT: Go ahead.

13 MR. ROBERTS: When you see me approach the
14 lectern, will you please withhold your reply.

15 ACTING PRESIDENT: You may complete your
16 reply.

17 A (Continuing) However, the Liaison Confer-
18 ence was a conference between the high command and
19 the government, and I do not think that purely
20 political matters were discussed at these confer-
21 ences.
22

23 Q In these Liaison Conferences, you and
24 General MUTO made various explanations and even
25 participated in the deliberations, did you not?

A We have never participated in the

deliberations.

1
2 Q Admiral, you state in your affidavit that
3 the Japanese Navy did not desire war. Did you
4 share in that attitude?

5 A Yes.

6 Q Is it not true that on 14 October 1941,
7 when the KONOYE Cabinet was deadlocked, the Army
8 offered to give way if the Navy would come out
9 definitely against war?

10 A I have written in my affidavit that I
11 heard of this from the Chief Cabinet Secretary,
12 TOMITA. The situation was exactly as I have
13 described.

14 Q Is it not also true that when this offer
15 was reported to you by Chief Secretary TOMITA you
16 refused to do this and left the matter up to the
17 Prime Minister?

18 A May I explain the circumstances with
19 regard to that; may I?

20 Q You may.

21 A On the 14th, TOMITA came to me on a visit,
22 and he spoke -- and he told me to the effect that
23 the Cabinet had reached a decision to resign en
24 bloc, and during the course of the conversation
25 TOMITA said that the Director of the Military

1 Affairs Bureau of the War Ministry had said such
2 and such, and I heard from TOMITA that he said at
3 that time to the Director of the Military Affairs
4 Bureau that that would be a difficult thing. There-
5 upon I said, "Yes, it is difficult," and told him
6 that the Navy has constantly pursued the policy of
7 leaving the matter up to the Prime Minister.

8 It was already the night of the 14th at
9 that time, when TOMITA came, and the Cabinet had
10 already arrived at a decision to submit its total
11 resignation. Hence, this matter was brought to my
12 attention merely by way of information, because
13 such a decision had already been arrived at.

14 At that time, I told TOMITA that the
15 resignation of the KONOYE Cabinet was extremely
16 regrettable in connection with the successful
17 culmination of the Japanese-American negotiations.
18 And, thereupon, I told TOMITA if there was any room
19 left, how about calling together the Four Ministers
20 Conference which had been discontinued -- be resumed
21 in order to impart the whole information -- the full
22 facts to the entire Cabinet. At this point, TOMITA
23 said it was now too late because the Cabinet had
24 already arrived at a decision to resign.

25 The circumstances are exactly as I have

1 stated in my affidavit.

2 Q Notwithstanding your denial, is it not
3 fair to state that the failure of the Navy to
4 definitely oppose war was the decisive factor which
5 enabled the Army leaders to force the nation to go
6 to war against the United States and that you
7 personally share in this responsibility?

8 MR. ROBERTS: I object on the ground that he
9 is asking this witness to forswear the issue.

10 ACTING PRESIDENT: Objection sustained.

11 Q With regard to the final note to Washing-
12 ton, about which you testified yesterday, was it
13 not true that for several days before the final
14 draft was approved you, as Chief of the Naval
15 Affairs Bureau, and the defendant MUTO, as Chief
16 of the Military Affairs Bureau, were in frequent
17 contact with the Foreign Office in connection with
18 the drafting of many revisions of that note?

19 A I have no recollection of such a fact.
20 I told the whole story yesterday.

21 Q Is it not a fact, however, that Admiral
22 ITO, you, and General MUTO frequently contacted the
23 Foreign Office, presenting the Navy's view that no
24 warning should be given which should endanger the
25 surprise attack?

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1 A I have never contacted the Foreign Minis-
2 try to any such effect.

3 ACTING PRESIDENT: We will adjourn until
4 one-thirty.

5 (Whereupon, at 1200, a recess was
6 taken.)

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Commander Cole.

- - -

T A K A Z U M I O K A, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

CROSS EXAMINATION

BY COMMANDER COLE (Continued):

Q Admiral, on page 20 of your affidavit you
stated that in regard to giving the United States notice
of commencement of hostilities you thought the Foreign
Office would take the proper procedure, and therefore
you entertained no concern over its progress. Do you
mean that you entertained no concern for yourself, be-
cause you thought the defendant TOGO was alone respon-
sible?

A My meaning is this: That diplomatic documents
or the formalities connected therewith, or diplomatic
procedure, are matters under the charge of the Ministry
for Foreign Affairs. In connection with such matters,
as far as the Navy Ministry is concerned, it has no

1 responsibility. Hence, in so far as my -- the author-
2 ities in my department or ministry were concerned, we
3 would warn or give advice or propose revisions in so far
4 as such guidance occurred in our minds, but inasmuch
5 as the Foreign Office was handling such matters on its
6 own responsibility, we agreed to whatever final con-
7 clusion was reached by the Foreign Office.

8 As for the Navy Ministry, such matters were not
9 only outside of its duties, but it had no experience or
10 expert knowledge on such matters. It is in that sense
11 that I made the statements that you find in my affi-
12 davit -- It is in that meaning that I felt as I have
13 stated in my affidavit.

14 Q Admiral, is it not a fact that on December 8,
15 1941, at about 4:00 A. M., on the morning of the Pearl
16 Harbor attack, you telephoned Foreign Minister TOGO and
17 reported to him on the success of the surprise attack
18 on Pearl Harbor?

19 A I don't recall, but such a thing is possible.

20 Q From what source did you receive the informa-
21 tion as to the success of the attack?

22 A The information -- I was informed to that
23 effect by my subordinates, but I should think that my
24 subordinates obtained their information by interception
25 of radio reports.

1 I don't remember ever having imparted such
2 information to the Foreign Ministry -- Foreign Minister,
3 and the fact of my statement to the effect that my
4 subordinates might have informed me is merely a supposi-
5 tion on my part.

6 Q Do you admit that about four o'clock on the
7 morning of December 8, 1941 you learned about the suc-
8 cess of the Pearl Harbor attack?

9 A Yes, I might have been informed about that
10 time with regard to that matter, but it is not in my
11 recollection now.

12 Q Do you deny that you had such a telephone
13 conversation with the defendant TOGO?

14 A I do not deny it because such a thing is pos-
15 sible, but it is not in my recollection.

16 Q In your affidavit you state that you attended
17 meetings of the investigation committee of the Privy
18 Council only as an explainer and did not participate
19 in the decisions.

20 A Yes, that is so.

21 Q Regardless of that, is it not true, however,
22 that after every investigation committee meeting was
23 held you attended a meeting of the Privy Council it-
24 self?

25 A No, I was not always in attendance.

1 Q Did you not participate in the decisions of
2 such Privy Council meetings?

3 A I have never participated in any decisions.

4 Q You attended the meetings of the investigation
5 committee of the Privy Council held on 8 December 1941
6 at 7:30 A. M., at which the bill for declaration of war
7 was unanimously adopted, did you not?

8 A I have no clear recollection, but probably I
9 attended as an explainer.

10 **COMMANDER COLE:** In connection with the last
11 answer of the witness, the prosecution refers the Tri-
12 bunal to exhibit 1241, record page 10,690.

13 Q Is it not a fact that on December 8, 1941, af-
14 ter the investigation committee meeting was ended, a
15 Privy Council meeting was held at 10:50 A. M. which
16 heard the report of the investigation committee and
17 discussed the measure proposing a declaration of war?
18

19 A I don't quite recall.

20 Q Is it not a fact that you attended that meet-
21 ing of the Privy Council?

22 A That, too, I do not recall, but probably I did
23 attend as an explainer.
24
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1 Q And at this meeting of the Privy Council
2 neither you nor the other committee members were
3 asked to retire prior to the decision, were you?

4 A At any meeting of the investigation committee
5 when a decision is taken no one is there. We are not
6 there.

7 Q By "we" do you mean the explainers?

8 A Yes, that is what I mean.

9 Q At this meeting of the Privy Council at
10 10:50 a. m. on December 8, 1941, you were present and
11 joined in the unanimous decision in favor of a declara-
12 tion of war; that is true, is it not?

13 A There is no case whatsoever of my participating
14 in the decision, but I have no recollection whether
15 I was in attendance there or not.

16 COMMANDER COLE: May the witness be shown
17 IPS document 1087?

18 (Whereupon, a document was handed
19 to the witness.)

20 Q Will you examine that document and state
21 whether it shows that you and General MUTO attended
22 a Privy Council meeting on 8 December, 1941?

23 A In this document I am included among those
24 who are reported to have been present.

25 Q Are the facts stated in this document sub-

stantially correct, so far as you know?

1 A (Examining) I don't remember the contents
2 and I cannot say on the face of this whether it is
3 correct or not. However, this appears to be a docu-
4 ment of the Privy Council and was prepared by the
5 Privy Council.
6

7 COMMANDER COLE: IPS document 1087 is
8 offered in evidence.

9 MR. ROBERTS: I object to it on the ground
10 that this document has not been sufficiently identi-
11 fied.

12 ACTING PRESIDENT: Objection sustained.

13 BY COMMANDER COLE:

14 Q In your affidavit you state that there was
15 no special department in the Navy Ministry for the
16 handling of prisoners of war. Is it not a fact that
17 the Naval Affairs Bureau handled matters relating to
18 prisoners of war subsequent to 7 December 1941?

19 A It handled liaison work within the country
20 with matters relating to prisoners of war. The situa-
21 tion was exactly as I related yesterday during the
22 course of additional direct examination.

23 Q I don't believe you explained what that
24 liaison work consisted of. Will you explain at this
25 time?

stantially correct, so far as you know?

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2 and I cannot say on the face of this whether it is
3 correct or not. However, this appears to be a docu-
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10 that this document has not been sufficiently identi-
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13 BY COMMANDER COLE:

14 Q In your affidavit you state that there was
15 no special department in the Navy Ministry for the
16 handling of prisoners of war. Is it not a fact that
17 the Naval Affairs Bureau handled matters relating to
18 prisoners of war subsequent to 7 December 1941?

19 A It handled liaison work within the country
20 with matters relating to prisoners of war. The situa-
21 tion was exactly as I related yesterday during the
22 course of additional direct examination.

23 Q I don't believe you explained what that
24 liaison work consisted of. Will you explain at this
25 time?

1 A In connection with prisoners of war, if
2 there were matters which required contact or liaison
3 with the army, we handled that. If there were facts,
4 any matters which required liaison with the Foreign
5 Office or the Home Office, our department handled that,
6 and in accordance with needs, if and when they arose,
7 we also handled liaison with the naval units which
8 happened to have prisoners of war in their hands.

9 Q The navy kept prisoners of war in temporary
10 camps prior to turning them over to the army, isn't
11 that so?

12 A Yes, in some cases.

13 Q How long did the navy retain these prisoners
14 of war before turning them over to the army?

15 A I don't know the details.

16 Q You testified before the Tribunal yesterday
17 that the Navy Minister had supervisory powers over
18 local commanders of naval stations in the supervision
19 and control of prisoners of war, isn't that true?

20 A No, it seems the meaning is a little differ-
21 ent.

22 Q Will you explain?

23 A The highest authority in connection with
24 supervision over prisoners of war were the commanders
25 of naval stations, commanders of a fleet, and command-

1 ers of naval guard areas. The Navy Minister super-
2 vises naval commanders and others in like position
3 in his capacity as one supervising naval officers.

4 Q Is it not a fact that you, as Chief of the
5 Bureau of Naval Affairs, issued orders concerning the
6 prisoners of war held in these temporary camps?

7 THE MONITOR: Correction on the previous
8 answer by the witness: "Naval officers" should be
9 replaced by "naval personnel."

10 A (Continuing) I have no recollection of the
11 Naval Affairs Bureau issuing such orders.

12 Q With reference to the 98 American civilians
13 captured on Wake Island in December 1941 and later
14 executed by Admiral SAKAIBARA in 1943, you in your
15 capacity as Chief of the Naval Affairs Bureau had
16 supervisory control over such captured civilians, did
17 you not?

18 A No, not at all.
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2 vises naval commanders and others in like position
3 in his capacity as one supervising naval officers.

4 Q Is it not a fact that you, as Chief of the
5 Bureau of Naval Affairs, issued orders concerning the
6 prisoners of war held in these temporary camps?

7 THE MONITOR: Correction on the previous
8 answer by the witness: "Naval officers" should be
9 replaced by "naval personnel."

10 A (Continuing) I have no recollection of the
11 Naval Affairs Bureau issuing such orders.

12 Q With reference to the 98 American civilians
13 captured on Wake Island in December 1941 and later
14 executed by Admiral SAKAIBARA in 1943, you in your
15 capacity as Chief of the Naval Affairs Bureau had
16 supervisory control over such captured civilians, did
17 you not?

18 A No, not at all.
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1 Q As Chief of the Naval Affairs Bureau you
2 could have ordered the transfer of these prisoners
3 of war from the temporary camp on Wake Island to
4 a prisoner of war camp in Japan, is that not so?

5 A I don't quite remember the circumstances
6 but I remember saying, after being informed that
7 there were prisoners of war in Wake Island, that it
8 would not be wise to hold such prisoners of war in a
9 distant, isolated island and that it would be better
10 to transfer them to the Japanese homeland; and my
11 recollection is that these prisoners of war were
12 transferred to the Japanese home islands after con-
13 sultation with various other bureaus and departments
14 in the Navy Ministry. In such matters the Naval
15 Affairs Bureau has no authority to issue orders.

16 Q Is it not a fact that on or about 30 Novem-
17 ber 1943 you as Chief of the Naval Affairs Bureau
18 ordered 38 prisoners of war to be transferred from
19 the Ofuna temporary camp to the Army prisoner of war
20 camp at Tokyo?
21

22 A I have absolutely no recollection of such a
23 matter. Such matters were purely routine business
24 matters and these matters were handled as a matter
25 of course by my subordinates either in my name or
in the name of the Naval Affairs Bureau and there are

many such matters which are not within my knowledge.

1 That is one of the items requiring internal liaison
2 work, that is to say, liaison work within Japan which
3 the Naval Affairs Bureau handled when necessary.

4 Whenever any demands came from the field, or requests
5 came from the field, for the transfer of prisoners of
6 war to the Japanese homeland, the Naval Affairs Bureau
7 performed the liaison work with the necessary author-
8 ities.
9

10 THE MONITOR: Substitute for "the Japanese
11 homeland," the words, "to the Army."

12 COMMANDER COLE: May the witness be shown
13 IPS document 2367?

14 (Whereupon, a document was handed
15 to the witness.)

16 Q Will you examine this document and state
17 whether it is not a secret order issued by the Chief
18 of the Naval Affairs Bureau at the time you held that
19 office to the Chief of the Army Military Affairs
20 Bureau concerning the transfer of 38 prisoners of
21 war from Ofuna prisoner of war camp?

22 A This is not an order. This, as I have
23 already referred to, is one of the items requiring
24 liaison work. As I have said before, such matters as
25 these were handled in my name or in the name of the

1 Naval Affairs Bureau and, therefore, I did not
2 then see any documents of this kind nor have I any
3 recollection of this.

4 May I make clear again that this is not an
5 order but an inquiry in connection with liaison work.

6 Q Irrespective of whether you ever saw this
7 particular document, is it not true that it was
8 issued by the Bureau of Naval Affairs at the time
9 when you were the chief thereof?

10 A It may be thought so but I do not have
11 sufficient data to confirm it.

12 Q Do you recognize the seal of the Prisoner
13 of War Information Bureau which appears on the first
14 page?

15 A It appears to be a copy of what is repre-
16 sented as a seal of the Prisoner of War Information
17 Bureau but it is not the seal itself. Also, under the
18 words Chief of the Naval Affairs Bureau there is a
19 red square indicating the seal of the Chief of the
20 Naval Affairs Bureau but it is not the seal itself.

21 Q Do you have any reason to believe that the
22 facts stated in this document are not substantially
23 correct?
24

25 A As I have said before, I do not know because
I did not personally handle this matter and because I

1 have no recollection of this matter.

2 Q Did you as Chief of the Naval Affairs Bureau
3 ever order the transfer of prisoners of war from
4 South Seas areas to prisoner of war camps in Japan?

5 A I have no recollection.

6 Q Is it not a fact that on or about 19 October
7 1942 as Chief of the Naval Affairs Bureau you ordered
8 the evacuation of 1,000 prisoners of war from Macassar
9 to Sasebo Naval Station?

10 A Such matters as these were handled in
11 accordance with requests made by the authorities in
12 the field as a routine business. I was not informed
13 of a matter of this kind and I do not recall anything
14 pertaining to it.

15 Q Did you not on the same date direct that
16 Sasebo Naval Station should turn these 1,000 prisoners
17 of war over to the Army and that the 1,000 prisoners
18 of war should be used en bloc for work at the Koyaki-
19 jima dockyard at Nagasaki?

20 A I have no recollection. I do not think
21 there were any such directions but at least I do not
22 remember.

23 Q And did you not direct on the same date that
24 the War Ministry Prisoner of War Control Department
25 should furnish 100 prisoners of war for work in each

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1 of four factories which were under the charge of the
2 Navy at Osaka and Hiroshima?

3 A I have absolutely no recollection of that.
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1 of four factories which were under the charge of the
Navy at Osaka and Hiroshima?

2 A I have absolutely no recollection of that.
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1 COMMANDER COLE: May the witness be shown
2 IPS document 3262?

3 (Whereupon, a document was handed
4 to the witness.)

5 Q Will you examine this document and state
6 whether it appears to be an order from the Chief of
7 the Naval Affairs Bureau at the time you held that
8 office addressed to the Chief of the War Ministry
9 Prisoner of War Control Department, dated 19 October
10 1942, concerning one thousand prisoners of war to be
11 evacuated from Macassar to Japan?

12 A Like the last document referred to, this is
13 not an order but an inquiry in connection with a
14 matter requiring liaison.

15 Q Do you recognize the seal of the Chief of
16 the Naval Affairs Bureau on this document?

17 A There is no seal whatsoever. It only says
18 there is a seal.

19 Q Do you deny that the facts stated in this
20 document are substantially correct?

21 A Inasmuch as I did not see these documents
22 at the time, and having no recollection, I cannot con-
23 firm it.

24 Q Admiral, is it not a fact that the prisoners
25 of war at Ofuna temporary prisoner of war camp were

1 given inadequate food and medical care and were
2 severely beaten with clubs with the result that many
3 of them died or were permanently injured?

4 A I have never heard of matters of such a
5 nature.

6 Q Is it not also a fact that members of Allied
7 submarine crews and Allied airmen were singled out for
8 particularly brutal treatment while at Ofuna?

9 A With regard to the Ofuna temporary prisoner
10 of war camp, I have never heard of the kind of pris-
11 oners of war held there nor how many were held there,
12 and matters such as just indicated by you were never
13 brought to my attention.

14 Q Did you ever inspect Ofuna camp or cause
15 it to be inspected?

16 A I do not think there was. Correction: I
17 do not think I did.

18 Q On page 34 of your affidavit you state that
19 a report covering the name and rank of all prisoners
20 of war held by Navy units came within the jurisdic-
21 tion of the Naval Affairs Bureau. By this you meant
22 that such reports were forwarded to the Bureau of
23 Naval Affairs from the naval units, did you not?

24 A No, I am referring to inquiries transmitted
25 to the Navy Ministry by the Foreign Office, and I

1 referred to this -- which are referred to in order
2 to reply to such inquiries. It is stipulated that
3 the list of names, the number and the personal ef-
4 fects of prisoners of war are to be directly notified
5 to the Prisoners of War Information Bureau by the
6 naval units in the field. Details are not forwarded
7 to the Navy Ministry. They are forwarded only upon
8 specific requests. And when necessary, inquiries are
9 made by the Navy Ministry in order to provide the
10 information requested by the Foreign Office.

11 Q Did not the Bureau of Naval Affairs handle
12 those inquiries?

13 A When necessary, inquiries were handled by
14 the Naval Affairs Bureau.

15 Q And in the course of handling those inquir-
16 ics, did the Bureau of Naval Affairs make a report to
17 the Foreign Minister?

18 A The list of names are known to the Prisoners
19 of War Information Bureau. If inquiries are addressed
20 there, the information could be supplied by that de-
21 partment. And I think that whenever the Foreign
22 Office required certain information, it was able to
23 obtain them from the Information Bureau. When neces-
24 sary, there are times when the Naval Affairs Bureau
25 could handle inquiries and make the necessary communi-

1 cation to the Foreign Office, but whether it actually
2 did it or not I do not know.

3 Q Evidence has been presented before this
4 Tribunal that from 7 December 1941 to 21 August 1945
5 the Japanese Foreign Ministry received forty notes
6 from the United States Government asking for informa-
7 tion about United States civilians captured by the
8 Japanese Navy on Wake Island. Did you ever receive
9 from the Foreign Ministry a request for information
10 as to such prisoners of war on Wake Island held by
11 the Navy?

12 A I never knew of these matters at the time.
13 I learned of them for the first time in this Tribunal.
14 And as for me, I tried my hardest to trace back my
15 recollections in an effort to refresh them and made
16 inquiries in order to do so, but was unable to recall
17 anything. Such matters as these being purely routine
18 liaison matters, I do not know whether even my sub-
19 ordinates handled them. With regard to this matter,
20 I have absolutely no recollection.

21 Q Do you mean that the defendant TOGO failed
22 in his duty to forward such notes of request to you?

23 A No, I do not think that way. The situation
24 was exactly as I have already told you in response
25 to your question.

1 Q Evidence has been presented to this Tribunal
2 by defense witness YAMAMOTO, Yoshio, who served as
3 Chief of Section I of the Naval Affairs Bureau from
4 1942 until 1945, that the Naval Affairs Bureau did
5 receive some protests concerning the perpetration
6 of atrocities on the survivors of Allied merchant
7 ships sunk by Japanese submarines in the Indian
8 Ocean. Did you ever see or hear of such protests?
9

10 A In reference to what year?

11 Q In reference to any of the years during
12 which you were the Chief of the Bureau of Naval
13 Affairs.

14 A During my tenure of office I have never seen
15 one.

16 **COMMANDER COLE:** In connection with the
17 last answer of the witness, prosecution refers the
18 Tribunal to the testimony of defense witness YAMAMOTO,
19 Yoshio at record page 27,382.
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1 ACTING PRESIDENT: With reference to these two
2 alleged orders of the Bureau of Naval Affairs relative
3 to the movement of prisoners, they should be admitted
4 for identification.

5 MR. ROBERTS: May I remind the Tribunal the
6 witness said they were inquiries, and I also join in the
7 request they be marked for identification.

8 CLERK OF THE COURT: Prosecution document
9 3267 will receive exhibit No. 3477 for identification
10 only. Prosecution document 3262 will receive exhibit
11 No. 3478 for identification only.

12 (Whereupon, prosecution documents
13 Nos. 3267 and 3262 were marked prosecution
14 exhibit No. 3477 and No. 3478 for identification.)

15 Q Irrespective of whether you personally ever
16 saw such protests, the Chief of the First Section,
17 YAMAMOTO, Yoshio, who served under you, has testified
18 that some protests were received. Will you state what
19 action was taken by your bureau upon those protests?

20 MR. ROBERTS: I object on the ground that this
21 question has already been answered.

22 ACTING PRESIDENT: Objection sustained.

23 THE WITNESS: I should like to say a few words.
24 May I?

25 ACTING PRESIDENT: There is no question before

1 you now, Mr. Witness.

2 THE WITNESS: It is with regard to the last
3 question.

4 COMMANDER COLI: Not at this time. Your
5 counsel will give you an opportunity later.

6 Q Evidence has been presented before this
7 Tribunal that the Japanese Foreign Minister, by
8 letters dated 12 February 1944 and 11 July 1944, for-
9 warded notes of protest concerning treatment of pris-
10 oners of war to the Navy Minister. What action was
11 taken by your bureau with respect to these protests?

12 A Having not seen those protests I do not know
13 exactly, but the general handling of such documents
14 was this, that in order to investigate into the con-
15 tents of any incident inquiries would be addressed to
16 the unit in which an incident occurred in order to
17 assemble all the information pertaining to the incident.
18 And it is only after a full investigation and a full
19 ascertainment of the truth or otherwise of the facts
20 that replies are prepared. And so insofar as these
21 matters were concerned up to this point they were
22 handled through the ordinary channels and such matters
23 required a considerable length of time, I should think.

24 I have had occasion to examine the various
25 protests entered into evidence at this trial, protests

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1 covering a period during which I have held office as --
2 I held my office, and of course I did not know of these
3 matters at the time and I discovered that most of these
4 matters had very little relationship with the Navy. And
5 so generally I think that the Prisoner of War Information
6 Bureau had pretty nearly all the data, all the informa-
7 tion necessary upon which to draw up replies. And it
8 is my recollection that copies sent to the Navy Minister
9 or the Vice Navy Minister were sent to them for reference
10 purposes only.

11 COMMANDER COLE: In connection with the last
12 answer of the witness, the prosecution refers the
13 Tribunal to exhibit 2173 in evidence at record page
14 15,513 and to exhibit 473 in evidence at record page
15 5,492.

16 Q In view of the fact that the evidence before
17 this Tribunal shows that copies of protests were received
18 both by your superior officers, the Navy Minister, and
19 by your subordinate, the Chief of the No. 1 Section of
20 the Naval Affairs Bureau, do you still deny that you
21 ever saw or heard of any such protests?

22 MR. ROBERTS: I object on the ground that the
23 question has already been answered.

24 ACTING PRESIDENT: Objection overruled.

25 A Unless I see a specific document I wouldn't

1 know, but generally speaking I do not think I have ever
2 seen any protests. And sneaking of these protests,
3 even if copies of them were sent by the Foreign Office
4 to the Ministry of the Navy so many of the matters did
5 not relate to the Navy at all so it was customary not
6 to see these protests at all.

7 Q Do you admit that it was the responsibility of
8 the Japanese Government to see that prisoners of war
9 were humanly treated?

10 A Yes, I do.

11 MR. ROBERTS: I object to that.

12 ACTING PRESIDENT: Objection sustained.

13 MR. ROBERTS: May the answer be stricken?

14 Q What action did you, as Chief of the Naval
15 Affairs Bureau, take to see that prisoners of war held
16 in temporary Navy camps were humanly treated?

17 MR. ROBERTS: I object to that. It has already
18 been answered.

19 ACTING PRESIDENT: Objection sustained.

20 COMMANDER COLF: No further cross-examination.

21 ACTING PRESIDENT: I have two or three questions
22 here from a Member of the Tribunal.

23 BY THE ACTING PRESIDENT:

24 Q What was the function of the Navy Ministry with
25 regard to territories occupied by the Navy?

1 A May I have the question repeated?

2 (Whereupon, the question was repeated
3 by the interpreter.)

4 A Matters pertaining to military government in
5 occupied areas.

6 Q What were its functions with regard to
7 prisoner of war camps in those territories?

8 A The responsibility for control over prisoners
9 of war resided in the naval unit exercising the control,
10 and the highest authority for control of prisoners of
11 war was the commander of the naval fleet over the naval
12 unit controlling the prisoners of war.

13 ACTING PRESIDENT: I think the other question he
14 better be postponed until after the recess.

15 We will now recess for fifteen minutes.

16 (Whereupon, at 1445, a recess was
17 taken until 1500, after which the proceedings
18 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.
3 BY ACTING PRESIDENT (Continued):

4 Q I understood you to say in reply to the
5 last question asked you before the recess that the
6 control of prisoners in territories occupied by the
7 navy was entirely in charge of the Commander of the
8 Fleet. Is that correct?

9 A That is with regard to prisoners of war
10 temporarily interned by the navy prior to their
11 transfer to the army.

12 Q Do you call those temporarily interned that
13 were held on Wake Island for approximately two years?

14 A All prisoners of war held by the navy are
15 considered to be held temporarily.

16 Q From that I assume that you mean that the
17 Navy Minister has no control whatsoever over them?

18 A The Navy Minister did not have any direct
19 authority over the control of prisoners of war.

20 Q Exhibit No. 628 is entitled, "Japanese
21 Foreign Policy." With reference to Dutch East Indies
22 on page 8 of the English copy, this is stated:

23 "If any of the important natural resources
24 should be destroyed, all the persons connected with
25 the raw material, the government officials concerned,
shall be severely punished as being the responsible

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.
3 BY ACTING PRESIDENT (Continued):

4 Q I understood you to say in reply to the
5 last question asked you before the recess that the
6 control of prisoners in territories occupied by the
7 navy was entirely in charge of the Commander of the
8 Fleet. Is that correct?

9 A That is with regard to prisoners of war
10 temporarily interned by the navy prior to their
11 transfer to the army.

12 Q Do you call those temporarily interned that
13 were held on Wake Island for approximately two years?

14 A All prisoners of war held by the navy are
15 considered to be held temporarily.

16 Q From that I assume that you mean that the
17 Navy Minister has no control whatsoever over them?

18 A The Navy Minister did not have any direct
19 authority over the control of prisoners of war.

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21 Foreign Policy." With reference to Dutch East Indies
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15 considered to be held temporarily.

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17 Navy Minister has no control whatsoever over them?

18 A The Navy Minister did not have any direct
19 authority over the control of prisoners of war.

20 Q Exhibit No. 628 is entitled, "Japanese
21 Foreign Policy." With reference to Dutch East Indies
22 on page 8 of the English copy, this is stated:

23 "If any of the important natural resources
24 should be destroyed, all the persons connected with
25 the raw material, the government officials concerned,
shall be severely punished as being the responsible

1 persons. (This matter should be announced widely
2 beforehand by radio and other means.)"

3 The question is: were there any discussions
4 in the Navy Ministry as to the means to insure that
5 the Netherlands East Indies oil fields should not be
6 destroyed?

7 A I have no recollection that such a dis-
8 cussion was held.

9 Q Did the Navy Ministry discuss with officials
10 of the Foreign Office the plan called "Tentative Plan
11 for Policy towards Southern Regions," which is the
12 exhibit which I just referred to?

13 A May I inquire the date of the document just
14 referred to?

15 Q At any time while you held your position
16 in the Navy Ministry.

17 A What was the name of the document referred
18 to?

19 Q It is the document I just read to you.

20 A May I ask that it be repeated?

21 MR. ROBERTS: Is there a possibility of the
22 witness's seeing this document, if the Court please?

23 ACTING PRESIDENT: It is only a short para-
24 graph. He may be shown the Japanese copy, exhibit
25 628. If you haven't it here I will read this. This

1 is entitled, "Tentative Plan for Policy towards
2 Southern Regions," and as to the Dutch East Indies
3 the paragraph I read before:

4 "If any of the important natural resources
5 should be destroyed, all the persons connected with
6 the raw material, the government officials concerned,
7 shall be severely punished as being the responsible
8 persons."

9 MR. ROBERTS: May I request the date on
10 that document, please?

11 ACTING PRESIDENT: 4th of October, 1940.

12 A Not having been appointed to the post of
13 Chief of the Naval Affairs Bureau on that date,
14 October 4, 1940, I do not know how that document was
15 handled or what it is all about. I am unable to
16 understand.

17 Q You were appointed Chief of the Naval Affairs
18 Bureau on October 10, 1940, were you not?

19 A I was appointed on October 15.

20 Q All right. After October 15 were these
21 plans discussed with the Foreign Office?

22 A Well, I do not recall this study draft, and
23 I have no recollection in connection therewith.

24 Q So you would not know whether they were dis-
25 cussed also with the general staff?

OK.

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1 is entitled, "Tentative Plan for Policy towards
2 Southern Regions," and as to the Dutch East Indies
3 the paragraph I read before:

4 "If any of the important natural resources
5 should be destroyed, all the persons connected with
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11 ACTING PRESIDENT: 4th of October, 1940.

12 A Not having been appointed to the post of
13 Chief of the Naval Affairs Bureau on that date,
14 October 4, 1940, I do not know how that document was
15 handled or what it is all about. I am unable to
16 understand.

17 Q You were appointed Chief of the Naval Affairs
18 Bureau on October 10, 1940, were you not?

19 A I was appointed on October 15.

20 Q All right. After October 15 were these
21 plans discussed with the Foreign Office?

22 A Well, I do not recall this study draft, and
23 I have no recollection in connection therewith.

24 Q So you would not know whether they were dis-
25 cussed also with the general staff?

1 is entitled, "Tentative Plan for Policy towards
2 Southern Regions," and as to the Dutch East Indies
3 the paragraph I read before:

4 "If any of the important natural resources
5 should be destroyed, all the persons connected with
6 the raw material, the government officials concerned,
7 shall be severely punished as being the responsible
8 persons."

9 MR. ROBERTS: May I request the date on
10 that document, please?

11 ACTING PRESIDENT: 4th of October, 1940.

12 A Not having been appointed to the post of
13 Chief of the Naval Affairs Bureau on that date,
14 October 4, 1940, I do not know how that document was
15 handled or what it is all about. I am unable to
16 understand.

17 Q You were appointed Chief of the Naval Affairs
18 Bureau on October 10, 1940, were you not?

19 A I was appointed on October 15.

20 Q All right. After October 15 were these
21 plans discussed with the Foreign Office?

22 A Well, I do not recall this study draft, and
23 I have no recollection in connection therewith.

24 Q So you would not know whether they were dis-
25 cussed also with the general staff?

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1 A No, I do not.

2 ACTING PRESIDENT: That is all.

3 Mr. Roberts.

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REDIRECT EXAMINATION

1
2 BY MR. ROBERTS:

3 Q Mr. OKA, on cross-examination yesterday,
4 Mr. Blakeney questioned you concerning your interro-
5 gation by a representative of the International Prosecu-
6 tion Section, and referred to an alleged discussion
7 between TOGO and Admirals NAGANO and ITO, and you
8 answered that the answer should have been that you did
9 not recall it.

10 I ask you if you were then not asked the fol-
11 lowing question, and if you did not make the following
12 answer on the same interrogation:

13 "Q Do you not recall your conversations with
14 NAGANO and ITO in which you also supported them in
15 their stand that the war should be started with a
16 maximum effectiveness and, therefore, no notice should
17 be given to the United States before attack? This was
18 after the decision to wage war and the notice to
19 attack.

20
21 "A I don't remember it."

22 Do you recall that as being the question and
23 answer?

24 A Yes.

25 Q Were the following questions then put to you,
and did you not make the following answers:

1 "Q You do remember that there was a discussion
2 between TOGO, NAGANO, and ITO, don't you?

3 "A I heard after the war had begun that there was
4 a discussion between TOGO and ITO.

5 "Q What did you hear?

6 "A Before the attack I had not heard it, and the
7 first time I heard it was from American sources.

8 "Q The first time you heard that ITO and TOGO had
9 an argument about the time of attack was from American
10 sources?

11 "A I heard it after the war for the first time.
12 My information came from the demobilization board which
13 was set up after the war."

14 Were those the questions and answers given?

15 A It seems different. I think there is some
16 mistake with regard to such matters as American sources
17 or that I heard after the war broke out. It appears
18 that the last two answers are the correct ones.

19 Q I will read the next question and answer:
20

21 "Q And then not from American sources?

22 "A It did not come from American sources."

23 Is that correct?

24 A Yes, that is correct.

25 Q Now, with respect to the meeting that you had
with KAGESA in 1938, did you receive the orders from

1 anyone concerning this meeting?

2 A It was in accordance with a suggestion made
3 by the Prime Minister and with the permission of the
4 Vice-Minister and the then Chief of the Naval Affairs
5 Bureau.

6 THE MONITOR: Strike out "with the permission"
7 and insert "at the orders of."

8 Q What was the purpose of that meeting?

9 A Exchange of information.

10 Q And were you then required to report the
11 information back to the Vice-Minister?

12 A I had the duty of reporting to the Vice-
13 Minister and the Chief of the Naval Affairs Bureau.

14 Q Now, in 1941 did Navy Minister OIKAWA advocate
15 withdrawal of the Japanese troops from China?

16 A Yes, he did. And I have heard that he advised
17 accordingly to Prime Minister KONOYE.

18 Q Did you support that view?

19 A Yes.

20 Q Did YAMAMOTO, Yoshio, remain in his post after
21 you vacated your post as Chief of the Naval Affairs
22 Bureau?

23 A He continued to be in that position after I
24 had vacated the post of Chief of the Naval Affairs
25 Bureau and Vice-Minister.

1 Q Mr. OKA, did you ever personally issue any
2 orders relative to the treatment of prisoners of war?

3 A No, I have not.

4 Q Was it your duty to visit or inspect prisoner
5 of war camps?

6 A No, it was not my duty.

7 Q Was the question of the time interval between
8 the delivery of the note and the attack on Pearl Harbor
9 ever discussed at the liaison conference?

10 A No, it was not.

11 MR. ROBERTS: That completes the redirect
12 examination.

13 ACTING PRESIDENT: The witness will take his
14 place in the dock.

15 (Whereupon, the witness was excused.)

16 MR. ROBERTS: At this time I want to refer to
17 exhibit 120, which is a copy of the personnel record of
18 the accused OKA, only for the guidance of the Court,
19 and I want to point out that the last page on the Eng-
20 lish copy seems to be missing. I think that is a matter
21 that should be corrected by the prosecution.

22 COMMANDER COLE: The prosecution will see that
23 the document is corrected.

24 ACTING PRESIDENT: Very well.

25 MR. ROBERTS: That completes the presentation

on behalf of the defendant OKA.

1 ACTING PRESIDENT: Are you ready to take
2 up the question of the commission which took the
3 testimony of Baron SHIDEHARA?
4

5 MR. BROOKS: If your Honor please, I am
6 ready to take it up at this time.

7 I understand there is a language correction
8 or two that I think should be made possibly at this
9 time.

10 LANGUAGE ARBITER: (Captain Kraft) If the
11 Tribunal please, the following language corrections
12 are submitted as given on the language correction
13 sheet submitted.

14 MR. BROOKS: May they be copied then into
15 the record as though they had been read, if your Honor
16 please?

17 ACTING PRESIDENT: They should be.

18 I understand that this witness is a part
19 of the defense of the defendant MINAMI.

20 MR. BROOKS: If your Honor please, this
21 witness is a former prosecution witness from whom
22 I have taken an affidavit upon three specific points.
23 And I wish to enter an objection, if it is proper to
24 do so at this time, to the report of the commission
25 and move that the matter be struck from the last

1 question on page 10 to the last question on page
2 63 as being improper cross-examination, not within
3 the scope of the affidavit.

4 ACTING PRESIDENT: Before we go into that,
5 I would like to get it straight on the record that
6 this affidavit is being presented as part of the
7 defense of the accused MINAMI.

8 MR. BROOKS: That is right. The affidavit
9 referred to therein, defense document 1964, is the
10 affidavit of SHIDEHARA, Kijuro on behalf of the
11 accused MINAMI.

12 If your Honor please, as to the report of
13 the commission--the record of the proceedings of the
14 commission, taking the deposition of SHIDEHARA at
15 his home on November 11 -- I offer at this time, which
16 I understand is proper -- I offer at this time to
17 introduce this record of the proceedings into evidence,
18 except for the parts that I ask to be deleted from
19 page 10 to the last question of page 63 on the basis
20 of the objection that it is not proper cross-examination;
21 that part.

22
23 If the Tribunal please, I wish to make some
24 explanation for the reasons of my objections thereon.
25 However, I understand one of the other defense counsel
also wishes to object to certain portions of this

1 document and I think it is probably best that he
2 be heard first before I go into the objections I
3 have, if that is agreeable.

4 ACTING PRESIDENT: It seems to me that so
5 long as the Court has appointed the commissioner,
6 that the Court should hear the report of the
7 commissioner, subject at that time to any objections
8 that counsel desire to make.

9 MR. BROOKS: That is what I was trying to
10 do, if your Honor please. I understand that I should
11 make my objections now fully on the ones that I
12 raised at the time, because the commissioner himself
13 did not have the power to pass upon them at that time.
14 Then, that this matter having been argued out, after
15 the Tribunal has ruled that that document be accepted
16 as any other piece of evidence and that part that is
17 acceptable be read into the record.

18 MR. COMYNS CARR: Your Honor, in my submission,
19 that is a most irregular and inconvenient procedure.
20 The proper procedure is that the document should be
21 read, first of all, the affidavit being read by my
22 friend as submitted to the commissioner and then the
23 cross-examination be read by me. When I reach the
24 point at which my friend wants to take his objection,
25 that is the proper time for him and other counsel who

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22 friend as submitted to the commissioner and then the
23 cross-examination be read by me. When I reach the
24 point at which my friend wants to take his objection,
25 that is the proper time for him and other counsel who

1 wants to take it to do so.

2 ACTING PRESIDENT: Perhaps I did not make
3 myself clear, but that is what I was trying to state.

4 MR. COMYNS CARR: I should just add that I
5 am not admitting that more than one counsel has a
6 right to take an objection at all.

7 MR. BROOKS: I would like to be heard on
8 that, your Honor, but Mr. Warren wants to be heard
9 first. I will let it go.

10 ACTING PRESIDENT: Mr. Warren.

11 MR. WARREN: Your Honor, I have carefully
12 perused the report of the commission. Defense
13 counsel who were permitted before the commission were
14 limited to two and it was supposed to be confined
15 to the accused MINAMI.

16 I am sorry, that number was three instead of
17 two.

18 There was a series of documents, the only
19 documents introduced, all directed to the accused
20 DOHIHARA. They were introduced by the prosecution
21 without notice to counsel or to the accused. I should
22 like to be permitted to make a blanket objection to
23 those documents, and I can save the Tribunal considerable
24 time by going back into the record as to what has
25 occurred before on these things and I think I can

1 make myself clear. And in furtherance of that, at
2 this time I should like to object to any portion
3 of the record which refers to the accused DOHIHARA
4 and not to the accused MINAMI. I ask that it be
5 stricken and not considered at this time.
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1 MR. COMYNS CARR: In my submission, your
2 Honor, no discussion should be permitted at this
3 time as to anything being stricken. As your Honor
4 has already indicated, the proper time to take that
5 is when we get to that point in reading the record.
6 Whether the Tribunal will then hear two counsel or
7 one is a matter also to be considered at that time.

8 MR. WARREN: Your Honor, I object to the
9 introduction of the thing. It is inconceivable to
10 me that the Court would even entertain for one
11 second the thought that I cannot be heard when this
12 is directed at DOIHARA and not the accused MINAMI.
13 I am prepared to argue the whole thing, the affi-
14 davit and everything else, as immaterial, incom-
15 petent, irrelevant, and not tending to prove or
16 disprove any issues in this case.

17 ACTING PRESIDENT: One thing is clear,
18 Colonel Warren, and that is this: that the affi-
19 davit is presented by the counsel for MINAMI, and
20 that certainly is admissible.

21 MR. WARREN: I want to handle this matter
22 in the best way for the Tribunal and the best way
23 for all concerned, but when we reach the point in
24 the proceedings where they start to read the
25 introduction of the first document -- they are

1 introduced as a series from then on -- I don't want
2 him to read one document and object and read another
3 and object. We will have about ten arguments, where
4 one will suffice. That is what I had in mind, sir.
5 I think it is proper procedure.

6 I don't know yet what counsel has offered
7 in evidence, frankly. He has only offered certain
8 portions.

9 MR. BROOKS: If your Honor please, I have
10 offered into evidence the record of the proceed-
11 ings with the exception of the last question on
12 page 10 to the last question on page 63, as being
13 relevant and material in this case, covering both
14 the cross-examination and direct examination, and
15 I objected to the remaining portions as being
16 outside of the scope of the direct examination,
17 outside of the affidavit, and therefore not ad-
18 missible because it was objectionable, and I'd
19 like to be heard upon that for various reasons.

20 MR. COMYNS CARR: Your Honor, in my sub-
21 mission, this is a shameful waste of time. The
22 affidavit has been read before the Commissioner in
23 pursuance of the order of this Court, and the
24 cross-examination has been taken before the
25 Commissioner in pursuance of the order of this

1 Court. It is in evidence as part of the proceed-
2 ings of this Court, subject to certain objections
3 which were taken by the defense to certain ques-
4 tions which were asked and certain documents as
5 they were tendered. Final decision on those objec-
6 tions was reserved by the Commissioner for the
7 whole Court. Subject to that, the whole record is
8 in evidence, and if my friend doesn't tender it,
9 I shall -- not tender, but if my friend doesn't
10 read it, I shall.

11 MR. BROOKS: This document is not in
12 evidence until it is marked as an exhibit in this
13 case, and all that was taken there was taken sub-
14 ject to objections at the proper time, and this
15 is the proper time, before it goes into evidence.
16 Any other method of accepting this would allow the
17 prosecution to weasel in new evidence and material
18 that was objectionable and put it before the Court.

19 I have the right to offer this deposition,
20 the same as any other piece of evidence, and to
21 limit the amount I offer and to take objections to
22 any of the balance as being irrelevant or immaterial
23 or beyond the scope of the Commissioner to hear,
24 and the prosecution should know it.

25 ACTING PRESIDENT: The document is now on

1 Court. It is in evidence as part of the proceed-
2 ings of this Court, subject to certain objections
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21 limit the amount I offer and to take objections to
22 any of the balance as being irrelevant or immaterial
23 or beyond the scope of the Commissioner to hear,
24 and the prosecution should know it.

25 ACTING PRESIDENT: The document is now on

1 record, the report of the Commissioner having been
2 filed with the Clerk, and consequently it should be
3 admitted, subject to any objection that may be
4 made at the time it is read. If any objections are
5 sustained, they may be struck from the record.

6 MR. BROOKS: Well, that -- the fact that
7 this is on file with the Clerk does not make it a
8 matter of evidence, if your Honor please, because
9 it has not been offered in evidence except now,
10 and I am offering it.

11 ACTING PRESIDENT: The report will be ad-
12 mitted.

13 MR. BROOKS: Yes, your Honor. I have
14 offered this, subject to certain restrictions which
15 the prosecution can argue when we come to that
16 point. I have offered all the report except from
17 page 10 to page 63, which I thought was objection-
18 able and should be argued separately.

19 ACTING PRESIDENT: You perhaps did not
20 understand the ruling of the Tribunal. The report
21 will be admitted in evidence, subject to any ob-
22 jections that will be made at the time, the proper
23 time, that they come up.

24 MR. BROOKS: Well, I haven't offered any
25 except that part, your Honor. I don't think I can

1 be forced to offer something that I have objected
2 to all the time.

3 Maybe I don't understand the Court's ruling:
4 I am trying to, but I offered --

5 ACTING PRESIDENT: We do not have to
6 accept your offer.

7 The Clerk will give it an exhibit number.

8 CLERK OF THE COURT: The deposition of
9 SHIDEHARA, Kijuro, taken before the Honorable Mr.
10 Justice Northcroft, Commissioner, on 11 November
11 1947, at the residence of the witness, No. 1219,
12 Okamoto-machi, Setagaya, Tokyo, Japan, together
13 with attachments, will receive exhibit No. 3479.

14 (Whereupon, the document above
15 , referred to was marked defense exhibit
16 , No. 3479 and received in evidence.)

17 ACTING PRESIDENT: We will proceed to read
18 the report tomorrow morning, subject to any objec-
19 tions that may be made.

20 The court is adjourned until nine-thirty
21 tomorrow morning.

22 (Whereupon, at 1600, an adjourn-
23 ment was taken until Thursday, 20 November
24 1947, at 0930.)
25

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20 NOVEMBER 1947

I N D E X
of
WITNESSES

Defense' Witnesses

Page

SHIDEHARA, Kijuro

33547

Direct by Mr. Brooks

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NOON RECESS

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Cross by Mr. Comyns Carr

33589

Redirect by Mr. Brooks

33658

20 NOVEMBER 1947

I N D E X

Of

EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidenc</u>
1964	3479-A		Affidavit of SHIDEHARA, Kijuro		33548
1767A(5)		3479-B	Telegram from Consul- General HAYASHI to Foreign Minister SHIDEHARA, dated 21 September 1931		33600
1767A(6)		3479-C	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 28 September 1931		33605
1767A(7)		3479-D	Telegram from Consul- General to SHIDEHARA, dated 3 October 1931		33606
1767A(8)		3479-E	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 6 October 1931		33610
1767A(9)		3479-F	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 16 October 1931		33613
1767A(10)		3479-G	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 19 October 1931		33615
1767A(17)		3479-H	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 27 October 1931		33617
1767A(12)		3479-J	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 7 November 1931		33622 33627

20 NOVEMBER 1947

I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
1767A(11)		3479-I	Telegram from Consul-General HAYASHI to SHIDEHARA, dated 28 October 1931		33625 33627
			<u>AFTERNOON RECESS</u>		33626

20 NOVEMBER 1947

I N D E X
Of
EXHIBITS
(cont'd)

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1767A(11)		3479-I	Telegram from Consul- General HAYASHI to SHIDEHARA, dated 28 October 1931		33625 33627
			<u>AFTERNOON RECESS</u>		33626

1 Thursday, 20 November 1947

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4

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

5

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The Tribunal met, pursuant to adjournment,
at 0930.

10

11 Appearances:

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For the Tribunal, all Members sitting with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600; HONORABLE JUSTICE HENRI
BERNARD, Member from the Republic of France, not sitting
from 1330 to 1430.

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For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are
4 present except MATSUI and SHIRATORI who are repre-
5 sented by counsel. We have certificates from the
6 prison surgeon at Sugamo certifying that they are ill
7 and unable to attend the trial today. The certificates
8 will be recorded and filed.

9 With the Tribunal's permission the accused
10 TOGO will be absent from the courtroom the whole of
11 the morning session conferring with his counsel.

12 Will the Clerk pass out the exhibit and then
13 we will proceed with the reading of the report of the
14 Commissioner.

15 MR. BROOKS: If the Tribunal please, has
16 this exhibit been now received into evidence or just
17 marked for identification to be read into evidence
18 subject to objections? Why I ask that is because if
19 it is marked for identification and being read into
20 evidence subject to objections then objections are
21 proper; but if it is received into evidence, I could
22 not object to parts being offered because it would
23 already be in evidence. It would be improper.

24 ACTING PRESIDENT: Under the ruling yesterday
25 it was admitted in evidence subject to objections at

1 the proper time by counsel, and whatever objections
2 are upheld will be stricken from the record.

3 MR. BROOKS: Thank you, your Honor; I just
4 wanted to understand the procedure I was to follow.

5 ACTING PRESIDENT: I understand that the re-
6 port of the Commissioner was served on the Judges but
7 I have not received a copy. The Clerk has no extra
8 copy.

9 Will you proceed?

10 CLERK OF THE COURT: Language Section, do
11 you have a copy of the covering order for simultaneous
12 translation?

13 (Reading): "International Military Tribunal
14 for the Far East -- The United States of America, et al.
15 vs. ARAKI, Sadao, et al. -- No. 1.

16 "Report of the Honorable Mr. Justice
17 Northcroft (Member for New Zealand), Commissioner
18 Appointed to Take Evidence of Witness, SHIDEHARA,
19 Kijuro.

20 "WHEREAS, on the 10th day of November 1947
21 the Tribunal ordered that the evidence of SHIDEHARA,
22 Kijuro, a witness whose testimony was sought by
23 Counsel for the defendants in this trial and who on
24 account of illness was unable to attend before the
25 Tribunal, should be taken upon commission before me,

1 AND WHEREAS on Tuesday, the 11th day of November 1947,
2 the witness SHIDEHARA, Kijuro appeared before me at
3 his residence in the City of Tokyo and (I being
4 satisfied that the witness was in possession of his
5 mental faculties and fit to give evidence) his evidence
6 was duly heard and taken, AND WHEREAS Messrs. Brooks,
7 Alfred W.; Furness, George A, and OKAMOTO, Toshio, of
8 Counsel for the Defense, and Mr. Comyns Carr, A.;
9 Colonel Woolworth, G. S.; and Mr. Liu, T.C. of Counsel
10 for the Prosecution, were present at the hearing,
11 AND WHEREAS the witness, with the approval of all
12 Counsel present and himself consenting, testified in
13 English, and was cross-examined and reexamined by
14 Counsel on behalf of the Prosecution and the Defense;
15 AND WHEREAS a Court Reporter and a Language Arbiter
16 were present throughout the hearing;

17
18 NOW THEREFORE, I, E. H. NORTHCROFT, Member
19 of the International Military Tribunal for the Far
20 East, HEREBY REPORT to the Tribunal that the evidence
21 of the witness SHIDEHARA, Kijuro has been duly taken
22 on commission before me in accordance with the order
23 of the Tribunal of 10th November 1947, and I HEREBY
24 CERTIFY that the transcript of proceedings attached
25 hereto, comprising 70 pages numbered successively
1 to 70, signed by me, is a true, correct and complete

1 record of the proceedings of the Commission, that the
2 document also attached hereto and marked with the
3 letter 'A' is the affidavit of the said witness
4 tendered as an exhibit in the course of the said
5 proceedings, that the documents further attached
6 hereto and marked successively with the letters 'B,'
7 'C,' 'D,' 'E,' 'F,' 'G,' 'H,' 'I,' and 'J' are
8 further exhibits tendered and received in evidence
9 in the course of the said proceedings.

10 "Dated at Tokyo, Japan, this 17th day of
11 November 1947.

12 "(Signed) E. H. NORTHCROFT."

13 MR. BROOKS: If your Honor please, that
14 last statement that certain letters, B, C, et cetera,
15 down to J, are "exhibits tendered and received in
16 evidence," I ask that that be amended to show subject,
17 of course, to objections. Every one of those was
18 objected to.

19 ACTING PRESIDENT: That ruling has already
20 been announced. There is no need for any more argu-
21 ment on it.

22 Will the Clerk proceed to read the order
23 appointing the Commissioner, pages 3 and 4?

24 CLERK OF THE COURT (Reading): "Case No. 1
25 The United States of America, et al. vs. ARAKI, Sadao,

et al.

1 "Commission to Take the Deposition of
2 SHIDEHARA, Kijuro.

3 "The Defense having offered in evidence the
4 affidavit of SHIDEHARA, Kijuro, together with verified
5 certificate executed by HIROTOSHI, Hashimoto, attend-
6 ing physician, certifying that the said SHIDEHARA is
7 ill and unable to attend this trial and give his
8 testimony in person and, the Prosecution objecting to
9 the giving in evidence of the testimony of the said
10 SHIDEHARA without opportunity to cross-examine him at
11 this time, it also appearing that the said SHIDEHARA
12 resides in the suburbs of Tokyo, it is, therefore,
13 duly considered by this Tribunal that the evidence of
14 the said SHIDEHARA should be taken by deposition before
15 one of the Members of this Tribunal as Commissioner,
16 and it is

17
18 "ORDERED: That the deposition of the witness
19 SHIDEHARA, Kijuro be taken before the Honorable Mr.
20 Justice Northcroft, a Member of this Tribunal, as
21 Commissioner so to do, at the residence of the said
22 SHIDEHARA, Kijuro on the 11th day of November, 1947
23 at the hour of 2:00 p.m. or as soon thereafter as the
24 said Commissioner may determine, and from day to day
25 and hour to hour thereafter until completed, and the

et al.

1 "Commission to Take the Deposition of
2 SHIDEHARA, Kijuro.

3 "The Defense having offered in evidence the
4 affidavit of SHIDEHARA, Kijuro, together with verified
5 certificate executed by HIROTOSHI, Hashimoto, attend-
6 ing physician, certifying that the said SHIDEHARA is
7 ill and unable to attend this trial and give his
8 testimony in person and, the Prosecution objecting to
9 the giving in evidence of the testimony of the said
10 SHIDEHARA without opportunity to cross-examine him at
11 this time, it also appearing that the said SHIDEHARA
12 resides in the suburbs of Tokyo, it is, therefore,
13 duly considered by this Tribunal that the evidence of
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15 one of the Members of this Tribunal as Commissioner,
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18 "ORDERED: That the deposition of the witness
19 SHIDEHARA, Kijuro be taken before the Honorable Mr.
20 Justice Northcroft, a Member of this Tribunal, as
21 Commissioner so to do, at the residence of the said
22 SHIDEHARA, Kijuro on the 11th day of November, 1947
23 at the hour of 2:00 p.m. or as soon thereafter as the
24 said Commissioner may determine, and from day to day
25 and hour to hour thereafter until completed, and the

1 Honorable Mr. Justice Northcroft is hereby designated
2 and appointed as Commissioner before whom said
3 deposition shall be taken; that a sufficient number
4 of court reporters of this Tribunal, with the assist-
5 ance of interpreters of this Tribunal, shall record
6 the testimony given and that said deposition, when
7 taken, transcribed and translated, shall be filed
8 with the Secretariat of this Tribunal;

9 "Further, that the Secretariat of this
10 Tribunal is directed to make the necessary arrange-
11 ments for the taking of this deposition.

12 "Dated this 10th day of November, 1947 at
13 Tokyo, Japan.

14 "FOR THE TRIBUNAL:

15 "Myron C. Cramer, Major General, Acting
16 President."

17 ACTING PRESIDENT: Mr. Brooks.

18 MR. BROOKS: Mr. President, it might be
19 well to state that the record shows that the
20 Commission met at 1400 and the part that was just
21 read by the Clerk was read by Mr. Lynch on the request
22 of the Commissioner -- at the top of page 3.

23 Now, continuing on page 5, at the top of
24 page 5. (Reading):

25 THE COMMISSIONER: I will ask my associate

SHIDEHARA

DIRECT

33,547

1 to administer the oath to the witness.

2 - - -

3 K I J U R O S H I D E H A R A, called as a witness
4 on behalf of the defense, being first duly sworn,
5 testified in English as follows:

6 THE COMMISSIONER: Yes, Mr. Brooks. You
7 have the affidavit?

8 MR. BROOKS: I have defense document No. 1964,
9 the affidavit of SHIDEHARA, Kijuro. Haven't we the
10 original here?

11 MR. LYNCH: Yes, sir.

12 MR. BROOKS: You had better give him that.

13 (Whereupon, a document was handed
14 to the witness.)

15 DIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q You are looking at defense document 1964,
18 Baron SHIDEHARA. Is that your affidavit?

19 A 1964, yes.

20 Q Is that your affidavit?

21 A Yes, that is my affidavit.

22 Q Are the contents thereof true and correct?

23 A Yes.

24 MR. BROOKS: We offer defense document 1964,
25 the affidavit of SHIDEHARA, Kijuro, into evidence.

SHIDEHARA

DIRECT

33,547

1 to administer the oath to the witness.

2 - - -

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7 have the affidavit?

8 MR. BROOKS: I have defense document No. 1964,
9 the affidavit of SHIDEHARA, Kijuro. Haven't we the
10 original here?

11 MR. LYNCH: Yes, sir.

12 MR. BROOKS: You had better give him that.

13 (Whereupon, a document was handed
14 to the witness.)

15 DIRECT EXAMINATION

16 BY MR. BROOKS:

17 Q You are looking at defense document 1964,
18 Baron SHIDEHARA. Is that your affidavit?

19 A 1964, yes.

20 Q Is that your affidavit?

21 A Yes, that is my affidavit.

22 Q Are the contents thereof true and correct?

23 A Yes.

24 MR. BROOKS: We offer defense document 1964,
25 the affidavit of SHIDEHARA, Kijuro, into evidence.

1 THE COMMISSIONER: It will be received and
2 marked with the letter "A" for identification.

3 (Whereupon, document No. 1964 was
4 marked defense exhibit A and received in
5 evidence.)

6 Do you wish to supplement it? (End reading)

7 MR. BROOKS: At this time may it be given a
8 regular exhibit number, your Honor?

9 ACTING PRESIDENT: It may be given exhibit
10 No. 3479-A.

11 (Whereupon, exhibit A was marked
12 defense exhibit No. 3479-A and received in
13 evidence.)
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1 MR. BROOKS: (Reading continued)

2 MR. BROOKS: If your Honor please, I do
3 not wish to supplement it. I do not know whether
4 it is necessary to read it at this time or not.

5 THE COMMISSIONER: If counsel are agreed,
6 I suggest we do not take time reading it but that the
7 court reporter merely transcribe it as if, indeed, it
8 had been read.

9 MR. BROOKS: Then may it be transcribed
10 starting with paragraph 2 as if I had read the
11 affidavit.

12 THE COMMISSIONER: Might I suggest you
13 start at 1 which describes the witness.

14 MR. BROOKS: All right. I'll start at 1,
15 then. On the date of the oath in the back, there is
16 an error there. That should be July 28, 1947. It
17 appears as 1931 by error. (End reading)

18 That is on page 3 of exhibit 3479A, if your
19 Honor please. Also on page 9 this same error ap-
20 pears. It was copied in the record. I ask that
21 that correction be made: "July 28, 1931" be changed
22 to "July 28, 1947."

23 (Reading continued):

24 "1. My name is SHIDEHARA, Kijuro. My age
25 is 76, having been born in 1872. My address is No.

1 1219, Okamoto-dachi, Setagaya, Tokyo.

2 "2. At the time of the Mukden Incident of
3 September 18th, 1931, I was the Foreign Minister,
4 while General MINAMI was the War Minister, both being
5 members of the WAKATSUKI Cabinet.

6 "On the morning of September 19, i.e., the
7 next day after the outbreak of the Incident, an extra-
8 ordinary Cabinet meeting was called. On that occa-
9 sion, I reported the receipt of a telegram from the
10 Japanese Consul-General in Mukden to the Foreign
11 Office, stating that a little after 10 o'clock of the
12 18th the Chinese troops had blown up the South Man-
13 churian Railway lines in the vicinity of Liutiokuo,
14 Mukden -- (end reading)

15 That is misspelled there. It should be:
16 L-i-u (dash) T-i-' (dash) K-u-o.

17 (Reading continued):

18 -- and clashed with our railway garrison.
19 War Minister MINAMI then reported that he also had
20 received a similar telegram from the Kwantung Army.
21 As these telegraphic reports from the district con-
22 cerned were very brief, the situation was too obscure
23 for the government to make any judgment at that time.
24 (end reading)
25

I would like to submit here, if the Court

1 please, that this paragraph is to clear up a state-
2 ment made by SHIDEHARA as prosecution witness at
3 page 1339 of the record. The next paragraph is
4 numbered 2 by error. "2" should be stricken. It
5 was corrected on the errata sheet.

6 (Reading continued)

7 "Cabinet meetings were held every day
8 thereafter and the situation on the spot became grad-
9 ually distinct. Hence, War Minister MINAMI declared
10 that the central army authorities (the General Staff
11 and the War Office) should make every possible effort
12 to prevent the expansion of the Incident, although
13 the action of the Kwantung Army originated from its
14 proper aim of guarding the railway. All the members
15 of the Cabinet, being in accord therewith, decided
16 upon the Government policy of non-expansion, which
17 was proclaimed at home and abroad on September 24.

18 "3. The WAKATSUKI Cabinet resigned en bloc
19 on December 10, 1931. Up to that time, however, I
20 did my best, always in cooperation with War Minister
21 MINAMI, to prevent the aggravation of the Incident.
22 It is, therefore, simply a mischievous rumor spread
23 by persons, who do not know the true facts, to circu-
24 late such an unfounded story as the one purporting
25 that I had come into loggerheads with War Minister

1 MINAMI on account of our maintenance of opposite ideas
2 at meetings of the Cabinet and that the friction be-
3 tween us two extended even to our personal emotions.
4 Actually from that time to this day I have been on
5 intimate terms with General MINAMI." (end reading)

6 At this point I would like to submit for
7 the reference of the Court page 20065 and 6 as to
8 what MINAMI says about the TANAKA statement of this
9 mischievous rumor as to opposition between SHIDEHARA
10 and MINAMI which is one thing that this part is put
11 in to meet. I also wish to refer the Tribunal to
12 SHIDEHARA's testimony on page 1334, line 13 to page
13 1335, line 7; page 1376, line 16 to 21; page 1338,
14 lines 13 to 18. If the Court sees fit, I will omit
15 reading the oath.

16 ACTING PRESIDENT: That is not necessary.

17 MR. BROOKS: (Reading continued)

18 THE COMMISSIONER: Have you any supplement-
19 ary questions?

20 MR. BROOKS: I have no supplementary ques-
21 tions, and the prosecution may cross-examine.

22 THE COMMISSIONER: Please do so, Mr. Carr.
23 (End reading)

24 MR. BROOKS: Mr. Carr will take over now,
25 I understand.

1 MR. WARREN: If the Tribunal please, at
2 this time, representing the accused DOHARA, I de-
3 sire to object to all of the cross-examination com-
4 mencing on page 10 and continuing through to page 43
5 of the exhibit.

6 ACTING PRESIDENT: I do not understand why
7 you counsel do not seem to understand the procedure
8 of the Court. Your various objections will be enter-
9 tained as they come up and not en bloc.

10 MR. WARREN: Perhaps the Tribunal does not
11 understand the position of counsel. That is what I
12 want to make plain. I am certain the Tribunal has
13 not as yet understood the position of this counsel.

14 ACTING PRESIDENT: We will not have another
15 argument. But, if you have individual objections,
16 you may state them.
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1 MR. WARREN: Your Honor, I do have, and I
2 should like to be heard on it. I will make it as
3 brief as possible.

4 The objection which I made embraces testimony
5 brought before the Commission by the prosecution con-
6 cerning the accused DOHII.A.A. and is outside the scope of
7 the affidavit and in no way touches it. Now, we
8 were not notified that this hearing would take place
9 although the prosecution undoubtedly knew that they
10 intended to introduce evidence against General
11 DOHII.A.A. The Charter provides, among other things,
12 that the Tribunal shall be conducted in a language
13 understandable to the accused, yet there is no Japan-
14 ese copy of this, and, consequently, my Japanese coun-
15 sel is still uninformed except as I have been able to
16 do through an interpreter, and we have been unable to
17 discuss this.

18 I am sorry, your Honor, Mr. Comyns Carr in-
19 forms me that I am completely wrong, there is a Japan-
20 ese copy. It has never been served on us. Mr. Brooks
21 apparently does not have one because I searched dili-
22 gently for it and have not been able to receive one.

23 I should like to refer the Tribunal, my ob-
24 jection only goes to this -- this might straighten
25 something out -- my objection only goes to B through J,

1 that is all that they are. These are introduced one
2 right after the other. They are, as you know, your
3 Honor, a series of telegrams purporting to give the
4 situation in Manchuria. The accused MINAMI on the
5 witness stand, at page 19, 821 of the record, admits
6 that he was informed at all times, so the purpose of
7 the cross-examination could not be directed at him
8 because it could not possible impeach him, he admitted
9 it.

10 I should like to read the question and the
11 answer, which is short:

12 "Q Did Baron SHIDEHARA, the Foreign Minister,
13 keep you informed from time to time of the reports that
14 he was receiving from the consuls in Manchuria and
15 China?" The answer is "Yes."

16 THE MONITOR: Mr. Warren, what document is
17 that, sir?

18 MR. WARREN: That is the record, page 19,821
19 of the record for April 11, 1947.

20 Further in the cross-examination of the
21 accused MINAMI and commencing at page 19,888 of the
22 record for April 14, 1947, the prosecution by cross-
23 examination attempted to go into the very same matters
24 which they did in this Commission hearing. Now, I
25 don't want to read this record, but I do wish that the

1 Tribunal would look at it at some later time.

2 I made several objections to Mr. Carr's
3 attempt to cross-examine a witness from a document
4 which the witness had not seen. I even went so far
5 as to become so impertinent as to say that I thought
6 they did not have any such documents. After a con-
7 siderable discussion with the President of the Court
8 in which I asked that Mr. Carr be required to mark
9 his exhibits for identification so that we might
10 meet them when DOHLHARA's case came up, the President
11 made this remark, which appears on page 19,892 of the
12 record. This remark was directed to Mr. Comyns Carr.

13 "The President: In such case, you ought to
14 tender the document for identification if you refer
15 to it, but that is all you can be expected to do."

16 Previously, on page 19,890 of the record,
17 the President had told Mr. Carr the following: "If
18 you expressly refer to documents not already in evi-
19 dence, then, following the practice of this Tribunal,
20 we will ask you to tender it for identification at
21 the end of the examination." There were other remarks
22 at that time, and if the Tribunal will read the record it
23 will find out that I am absolutely correct.

24
25 Now, if the Tribunal please, it is more than
passing strange that the identical references made at

1 the time that I quoted the record are the identical
2 things which were introduced in a case against MINAMI
3 when the accused DOHIMARA was not represented. I
4 may be in error, but there is no doubt in my mind
5 that the documents which were introduced in this hear-
6 ing that we are now discussing were in the hands of
7 Mr. Comyns Carr on that day and were not marked for
8 identification. Had they felt that they were admissible
9 they could have offered them at that time when the
10 accused DOHIMARA was completely represented, and at
11 a time when the witness was available on that witness
12 stand for cross-examination.

13 Now, we were precluded because -- I mean pre-
14 cluded from answering these documents in our case in
15 chief for DOHIMARA because the prosecution chose not
16 to follow the advice and request of the Tribunal. And
17 inasmuch as we were not represented before this hear-
18 ing, were not invited, were not notified, and have not
19 been served with Japanese copies, we feel that to
20 permit these to come in would be a great injustice
21 at this time, especially when a mere -- especially
22 when the slightest perusal will indicate to the Court
23 that they are directed against DOHIMARA and not
24 MINAMI, and are not within the scope of the affidavit.
25

1 MR. BROOKS: If the Tribunal please, I would
2 like to object -- enter a similar objection, limited
3 to part of the affidavit from page 10 to page 63, if
4 the Court wishes to hear me, and I could cover all of
5 that at this time. Otherwise I will abide by whatever
6 ruling the Court says.

7 I wasn't intending to raise any objection
8 until it came up at a later period but we can do it
9 all at one time if the Court so desires and save time.

10 ACTING PRESIDENT: That was the ruling of
11 the Court.

12 Mr. Comyns Carr.

13 MR. COMYNS CARR: May it please the Tribunal,
14 the long dissertation, prefaced with the expression it
15 was going to be short, to which we have just listened
16 only illustrates the inconvenience of disregarding the
17 directions of the Tribunal. The objections when they
18 come to be heard turn out not to be general at all,
19 with one exception, but particular relating to each
20 document.

21 The only general one is that my friend Mr. Warren
22 was not personally notified that in the course of the
23 cross-examination of Baron SHIDEHARA on commission his
24 client, DOHIHARA, would be mentioned. Actually, I
25 received a message from the defense asking whether

1 SHIGEMITSU would be mentioned in the course of the
2 cross-examination and I replied that SHIGEMITSU, as
3 far as I could see, would not but DONIHARA would. If
4 that message, which was no obligation as far as I know
5 on the prosecution to give, did not reach my friend
6 Mr. Warren, I am sorry. And if he did not choose to
7 attend the proceedings as a matter of precaution, which
8 my friend Mr. Furness on behalf of SHIGEMITSU in spite
9 of that message did do, that isn't the prosecution's
10 fault. In any case, he is in no way prejudiced because
11 the documents were admitted subject to objection and
12 here he is taking the objection.

13 Now, when it comes to the objection itself, it
14 is supported by much inaccuracy. What happened is this:
15 During the cross-examination of MINAMI, MINAMI repeatedly
16 stated that although SHIDEHARA had some times spoken to
17 him in the cabinet about reports that he was receiving
18 from consuls in China, he denied that SHIDEHARA had
19 ever sent him a copy of any of them or shown any of
20 them to him, and with regard to each of these particular
21 documents he denied specifically that the subject
22 matter of them had ever been mentioned to him by
23 SHIDEHARA.

24 MR. PROOKS: If the Tribunal please, I would
25 like the reference to the record on a statement like

1 that because I don't believe the record bears the
2 prosecution out.

3 MR. COMYNS CARR: In due course that shall be
4 done.

5 In each case -- I think I am right in saying
6 every one but the majority of them at all events and
7 I think I can refer to the record for every one of them --
8 having asked him first of all whether he had been shown
9 these reports, and he denied ever seeing any of them,
10 I then put questions to him based upon the contents of
11 them. It was at that point that the discussion arose,
12 part of which has been referred to out of its context
13 by my friend Mr. Warren, at page 19,889 of the record.
14 Having put to him a question based upon the document --
15 the two documents which are now exhibits F and G to
16 this affidavit, Warren then took the objection and made
17 the observation to which he referred that he didn't
18 believe any document existed, and then claimed that
19 the document should be marked for identification. And
20 I then drew attention to the ruling which the Tribunal
21 had given that morning that unless there was a document
22 which the witness could prove as being his own document
23 there was no necessity to produce it as the witness
24 wouldn't be able to recognize it, it couldn't be marked
25 as an exhibit, and there was no necessity to have it

1 that because I don't believe the record bears the
2 prosecution out.

3 MR. COMYNS CARR: In due course that shall be
4 done.

5 In each case -- I think I am right in saying
6 every one but the majority of them at all events and
7 I think I can refer to the record for every one of them --
8 having asked him first of all whether he had been shown
9 these reports, and he denied ever seeing any of them,
10 I then put questions to him based upon the contents of
11 them. It was at that point that the discussion arose,
12 part of which has been referred to out of its context
13 by my friend Mr. Warren, at page 19,889 of the record.
14 Having put to him a question based upon the document --
15 the two documents which are now exhibits F and G to
16 this affidavit, Warren then took the objection and made
17 the observation to which he referred that he didn't
18 believe any document existed, and then claimed that
19 the document should be marked for identification. And
20 I then drew attention to the ruling which the Tribunal
21 had given that morning that unless there was a document
22 which the witness could prove as being his own document
23 there was no necessity to produce it as the witness
24 wouldn't be able to recognize it, it couldn't be marked
25 as an exhibit, and there was no necessity to have it

1 marked for identification, and that questions could be
2 put on a matter of fact whether the facts were obtained
3 from a document or not.
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2 out on a matter of fact whether the facts were obtained
3 from a document or not.
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1 At page 19,891, I submitted to the Tribunal
2 in these words: "But the question is, at what stage
3 it is proper to produce the document; and, in my sub-
4 mission, unless it is a document which the witness
5 can identify of his own knowledge, the proper stage
6 is in rebuttal."

7 And again I submitted: "When I am merely
8 putting a question without reference to the document
9 as a document, the fact that the question is based
10 upon a document is immaterial and does not require
11 it to be produced at that stage."

12 The President said: "Well, is there any-
13 thing in doubt? Proceed with the cross-examination."

14 And I proceeded, as I had been doing before
15 the objection was taken.

16 Now, if MINAMI had admitted, as SHIDEHARA
17 has now sworn, that SHIDEHARA supplied him with a
18 copy of every one of these documents, then the docu-
19 ment could properly have been put in during the cross-
20 examination of MINAMI, but MINAMI denied it repeatedly,
21 of which an example is on page 19,904, where I
22 was cross-examining him about a document already
23 exhibited, exhibit 300, and he replied: "At that
24 time not one single telegram was sent around to
25 us from the Foreign Office, and I did not hear of

1 that from SHIDEHARA; and, as a matter of fact, I heard
2 of it for the very first time in this very Tribunal
3 the other day." And he repeated that over and over
4 again with regard to numbers of these telegrams he
5 was asked about, and he simply said, "No, I never saw
6 any of them."

7 Naturally, the defense is anxious to exclude
8 from evidence of the Tribunal the fact that SHIDEHARA
9 has sworn the exact opposite, that he sent him a copy
10 of every one.

11 The objection taken by my friend Mr. Warren
12 would exclude the whole of his answers relating to
13 that matter; and so, I think, would the objection
14 which my friend Mr. Brooks is taking.

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1 Coming to the individual documents, Baron
2 SHIDEHARA's answer that he had sent MINAMI copies of
3 all of them applied, first of all, to the whole of
4 those -- of which there were a considerable number --
5 which have already been exhibited.

6 It applied, secondly, to the whole of the
7 additional documents of the same kind, namely, consular
8 reports tendered in the cross-examination, all of
9 which, of course, would have appeared without wasting
10 the time of the Tribunal if I had been allowed to read
11 the cross-examination and the objection had been taken
12 at the proper time.

13 The whole of these documents are, therefore,
14 in the first place, evidence against MINAMI, because
15 SHIDEHARA, contradicting MINAMI's statement, has sworn
16 that he sent a copy of each of them to MINAMI at the
17 time it was received. No doubt most of them also
18 referred to LOHIHARA, and are in a different sense and
19 from a different point of view also evidence against
20 DOHIHARA. All of them could have been tendered in
21 rebuttal, founded upon the questions put to MINAMI and
22 his denials; and if any opportunity for the purpose had
23 been given during the presentation of LOHIHARA's case,
24 they could also have been used in cross-examination
25 then, and if denied, that would have been a further

1 ground for tendering them in rebuttal. It might or
2 might not have been necessary, in rebuttal, to have
3 tendered on behalf of the prosecution, a further affi-
4 davit by SHIDEHARA stating that he had sent the copies
5 of them to MINAMI; however, the defense have saved us
6 that trouble by calling SHIDEHARA and giving us the
7 opportunity of cross-examining him.

8 The last objection, I understand, is that this
9 matter is not within the scope of the affidavit. The
10 affidavit is one purporting to cover the whole of the
11 Manchurian Incident down to the resignation of the
12 WAKATSUKI Cabinet on December 10, 1931. And I refer
13 in particular to the sentence at the beginning of
14 paragraph 3 of the affidavit on page 8 of the record:

15 "The WAKATSUKI Cabinet resigned en bloc on
16 December 10, 1931. Up to that time, however, I did
17 my best, always in cooperation with War Minister
18 MINAMI, to prevent the aggravation of the incident."

19 To enable the Tribunal to judge of the extent
20 and value of MINAMI's cooperation, it is obviously
21 helpful, in my submission, to know what information
22 SHIDEHARA supplied to MINAMI in order to ask what
23 steps -- to consider with MINAMI's own evidence -- what
24 steps if any he took upon that information.
25

ACTING PRESIDENT: We will take a recess for

1 fifteen minutes.

2 (Whereupon, at 1045, a recess was taken
3 until 1100, after which the proceedings were
4 resumed as follows:)

5 - - -

6 MARSHAL OF THE COURT: The International
7 Military Tribunal for the Far East is now resumed.

8 ACTING PRESIDENT: Mr. Comyns Carr.

9 MR. COMYNS CARR: I think I have covered
10 all the ground, and, with regard to the individual
11 exhibits, it would probably be more convenient if I
12 gave the record references to them as I come to each
13 one, but if the Tribunal desires to have them all
14 now, I can give them all now.

15 ACTING PRESIDENT: The Tribunal would prefer
16 to hear them now.

17 MR. COMYNS CARR: If your Honor please, I
18 would just like to say that, in my submission, for
19 the purpose of introducing documents in the cross-
20 examination of the witness SHIDEHARA, it is not in
21 the least necessary that the contents of them should
22 have been put to MINAMI.

23 The subject matter of exhibit B was referred
24 to in MINAMI's cross-examination at pages 19,879 and
25 19,895 to -6; exhibit C, also pages 19,895 to -6.

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1 MR. BROOKS: If your Honor please, I think
2 it is irrelevant and immaterial what appears in
3 MINAMI's testimony. The basis for this admission
4 of this evidence is that it is within the scope
5 of this affidavit, and it has nothing whatsoever to
6 do with anything about trying to plug holes in some
7 case or get their own witness, the prosecution wit-
8 ness, to change their whole story after he has been
9 cross-examined and re-examined.

10 ACTING PRESIDENT: The Tribunal has just
11 indicated its desire that these be read at the
12 present time. You will please continue with the
13 reading, Mr. Comyns Carr.

14 MR. COMYNS CARR: The subject matter of
15 exhibit D was referred to at pages 19,881 to -2;
16 exhibit E, also page 19,882; exhibit F, pages
17 19,888 to -94. The length of that reference is
18 due to the fact that it was on that particular
19 occasion that the argument took place as to whether
20 the document should be produced for identification
21 or not. Exhibit G, also in the course of the same
22 pages; exhibit H, pages 19,909 to -12, exhibit I,
23 pages 19,883 to -4; exhibit J, pages 19,883 to -4
24 and also pages 19,895 to -6.
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Yes, those are all, and at most of those

1 pages, if not all of them -- I think, all of them --
2 it will be found that MINAMI denied having seen any
3 such telegrams or heard any such report from
4 SHIDEHARA. There are also numerous other pages on
5 which the same matters were referred to, besides
6 those I have mentioned.

7 The only other thing I have to say is that
8 I find I was wrong in saying the Japanese copy of
9 the whole of this transcript of the commission
10 evidence has been served, but copies of the exhibits
11 in English and Japanese have been served -- dis-
12 tributed to the whole of the defense.

13 MR. WARREN: If the Tribunal please,
14 references counsel has just given to the Tribunal
15 are, in the main, the ones that I refer to along
16 the same place. Counsel states that the subject
17 matter of these telegrams were referred to. We
18 well knew that at the time. We asked him if he
19 would, and the Tribunal suggested to him that he
20 mark them for identification. MINAMI never saw
21 them. Counsel states to the Tribunal, in sub-
22 stance, that it would be useless to show MINAMI the
23 telegrams, because he had merely seen them and they
24 were not of his own creation.

25 Since counsel chose to refer in all the

reports, MINAMI said he had such reports.

1 Now, if your Honor please, I want to refer
2 specifically to the quotation of counsel, from the
3 record on page 19,904, in which only part of the
4 record was quoted and would leave the impression
5 with the Tribunal, unless they had a copy of the
6 record in front of them, that we were talking about
7 the Mukden Incident, as all these exhibits, which
8 were introduced before the commission, were.

9 Now, your Honor, it is true that he was
10 asked if he was not so informed by SHIDEHARA at
11 that time, and he said, "No," but in that instance,
12 your Honor, and in the question before, it was
13 very plain, because Mr. Comyns Carr asked him,
14 "Isn't it the truth, as stated by KUWASHIMA in
15 exhibit 300 ...," which we answered and which we
16 brought evidence in to show that it was pure,
17 rank hearsay.
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1 ACTING PRESIDENT: Can't you cut your
2 sentences a little shorter, Colonel Warren?

3 MR. WARREN: Yes, I shall, sir. I realize
4 my error.

5 Now, your Honor, let's look at the reference
6 given to the Court by my friend on page 19,888 to see
7 whether or not MINAMI denied these things that counsel
8 said he did. The question: "Were you informed in
9 the Cabinet that HAYASHI, the Consul General, had
10 reported on the 16th and 19th of October that DOHIHARA
11 was retiring in favor of a Chinaman nominated by
12 himself?" The answer in part, he starts out: "No --
13 yes, I do not know exactly how long ago DOHIHARA was
14 Mayor." He didn't deny it there.

15 Counsel says he did in the next question; and
16 that next question is, "Were you informed that the
17 Japanese officials who had assisted DOHIHARA as mayor
18 were in the future to act as advisers to his Chinese
19 successor?", but I am unable to read in there the
20 suggestions made by Mr. Carr.

21 Now, your Honor, to get away from the
22 quotations, because I asked the Tribunal to read all
23 of that and determine for themselves. But counsel
24 himself states that this would be good on rebuttal. I
25 agreed with him at the time, I still agree with him,

1 ACTING PRESIDENT: Can't you cut your
2 sentences a little shorter, Colonel Warren?

3 MR. WARREN: Yes, I shall, sir. I realize
4 my error.

5 Now, your Honor, let's look at the reference
6 given to the Court by my friend on page 19,888 to see
7 whether or not MINAMI denied these things that counsel
8 said he did. The question: "Were you informed in
9 the Cabinet that HAYASHI, the Consul General, had
10 reported on the 16th and 19th of October that DOHIHARA
11 was retiring in favor of a Chinaman nominated by
12 himself?" The answer in part, he starts out: "No --
13 yes, I do not know exactly how long ago DOHIHARA was
14 Mayor." He didn't deny it there.

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16 that next question is, "Were you informed that the
17 Japanese officials who had assisted DOHIHARA as mayor
18 were in the future to act as advisers to his Chinese
19 successor?", but I am unable to read in there the
20 suggestions made by Mr. Carr.

21 Now, your Honor, to get away from the
22 quotations, because I asked the Tribunal to read all
23 of that and determine for themselves. But counsel
24 himself states that this would be good on rebuttal. I
25 agreed with him at the time, I still agree with him,

1 if there would be any rebuttal testimony that it
2 might be good at that time, subject to proper
3 objection. However, the fact remains that it is
4 not rebuttal. It was used at a time when we were
5 not notified. Mr. Carr knows I represent DOHIHARA,
6 and he admits that I was not given notice. He now
7 admits that there was no Japanese copy as I first
8 told the Tribunal.

9 I submit, your Honor, that the quotations
10 given by counsel are not correct as to the meaning
11 which he hopes to convey to the Tribunal because it
12 refers to other incidents.

13 I submit that the entire proceedings with
14 reference to the accused DOHIHARA, had before the
15 commission, was an attempt upon the part of the
16 prosecution to do by indirection what they would not
17 be permitted to do directly in this Tribunal.

18 I submit, further, that my objection is
19 timely because it has to do with a series of documents
20 all related and so indicated by the prosecution
21 markings.

22 I submit that the Charter provides that an
23 accused is entitled to have counsel represent him at
24 any stage of the proceedings in which evidence is
25 taken against him. I submit that that was not complied

with, not through any fault of counsel. Law is not
a question of hide and seek; it is a question of
1 bring it in the open before the Tribunal, and I
2 resent the fact that I was not notified so I could
3 have been there and presented my objections to Lord
4 Northcroft at the time.

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ACTING PRESIDENT: I don't think we care to
hear any more of your argument, Mr. Carr.

Captain Brooks, inasmuch as Colonel Warren has brought up the point that the documents presented by the prosecution go beyond the scope of the witness' affidavit, I think it would be convenient for the Court to hear your argument on that point now.

MR. BROOKS: I would first like to state from the record, at page 19,891, that in relation to these documents which the prosecution were supposedly cross-examining MINAMI on, as we expected at that time, the prosecution should have put these documents into evidence if the witness denied them. To make it clear what the ruling of the Court might be in such a case, I stated as follows at line 7 on page 19,891:

"Mr. Brooks: I take it, your Honor, that if the prosecution asks the witness on a document that he says he has, as to what the witness has stated, and the witness states he does not or he doesn't say it, the prosecution is bound by the answer unless the prosecution puts the document into evidence to show that he didn't state otherwise."

Mr. Comyns Carr interrupted and said:

"Your Honor, nobody would dispute that proposition, but the question is, at what stage it is proper to

1 produce a document, and in my submission unless it is a
2 document which the witness can identify of his own
3 knowledge, the proper stage is in rebuttal."

4 Continuing:

5 "Mr. Brooks: I submit, your Honor, that when
6 we are talking on matters that occurred 25 or 26 years
7 ago, the witness should at the close at least be given
8 a chance to refresh his recollection on what was said,
9 and to call back into his mind those facts. We should
10 also have the right of redirect examination over the
11 same points if there is any matter that needs clearing
12 up.

13 "Mr. Carr: Your Honor, I put my questions
14 quite clearly and in my submission it couldn't help the
15 witness to look at a document unless it is his own docu-
16 ment.

17 "The President: In such case you ought to
18 tender the document for identification if you refer to
19 it. That is all you can be expected to do.

20 "Mr. Carr: If your Honor pleases, might I sub-
21 mit, however, that when I am merely putting a question
22 without reference to the document as a document, the
23 fact that the question is based on a document is
24 immaterial and does not require it to be produced at
25 that stage."

1 Now we see that the purpose was not as last
2 stated by the prosecutor, that since the witness was
3 not given a chance to refresh his recollection and the
4 documents were not marked for identification, the
5 prosecutor is now trying to say that these are the docu-
6 ments which he showed to the witness.

7 I withdraw that last statement because the
8 documents were not shown to the witness; but that these
9 were the documents upon which the witness was questioned.

10 If he had been trying to test his credibility
11 at that time he would have, after asking him about the
12 documents, have offered them to show that such and such
13 documents were within this man's knowledge. He would
14 not have had to produce them from a Foreign Office file
15 because if they had been sent from the Foreign Office
16 -- copies of them -- to the War Ministry, he could have
17 produced them from the War Ministry files. I think that
18 I would produce evidence upon this in the future, to show
19 that such documents were not in the War Ministry files
20 and never had been, if it becomes necessary to meet
21 this matter as new evidence.
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23 However, I state that the Court should hold the
24 prosecution as bound by the answer of this witness, for
25 the prosecution failed to produce the documents at that
time, which was the proper time. I further state that

1 this is not the proper way to impeach a witness. If
2 the witness had been questioned on the documents and
3 then they had been marked for identification, or shown,
4 or offered in evidence, that would be a way, but there
5 is no proof that this is the document shown at the time
6 and the witness has not had the chance to refresh his
7 recollection thereon or to amend his answer, after be-
8 coming acquainted with the details, if he did deny it.

9 ACTING PRESIDENT: What we are particularly
10 interested in hearing from you at the present time is
11 your argument that these documents go beyond the affi-
12 davit of the witness.

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1 MR. BROOKS: I am going into that right now,
2 sir. I am not stating that MINAMI denies this, be-
3 cause I have not had a chance to check the record.
4 However, I do state that in this case he has not
5 been given an opportunity to refresh his recollection
6 or to deny the documents presented before the com-
7 mission.

8 Now, my objection to the matter on cross-
9 examination covers from the last question on page 10
10 to the last question on page 63 as being improper,
11 cross-examination not within the scope of the affi-
12 davit. I might refer the Court for an argument on
13 that to record page 1356, line 22, to court record
14 page 1360, line 14, for the argument by Justice Mans-
15 field of the prosecution on limiting cross-examination
16 to matters concerned within the examination in chief
17 which has been adopted by this court; and also a
18 reference to court record page 1369, lines 2 to 19,
19 for Mansfield's argument that the prosecution should
20 be furnished documents at least twenty-four hours in
21 advance before a witness can be questioned; and
22 under similar circumstances, at pages 1370 and 1371,
23 the Tribunal states: "You cannot use such documents
24 until you have complied with the rules."
25

That is why at the time of the taking of

1 this commission this type of cross-examination was
2 unexpected, and I did not have the record of the
3 testimony of SHIDEHARA or MINAMI before me for re-
4 examination on matters covered by the prosecution
5 which were outside the scope of the affidavit and
6 conflict in many instances with the previous testi-
7 mony of SHIDEHARA in some ways which can only be found
8 by examination of the record, which was not available
9 before the commission at SHIDEHARA's home.

10 If we had had twenty-four hours service of
11 notice, I would have taken objection to the last
12 question on page 10 at the time, because the answer
13 appears to this question at record page 1324, June
14 25, 1946, starting at line 7. Therefore my objec-
15 tion is that it is not only repetitious but is out-
16 side the scope of the direct examination or of the
17 affidavit.

18 It might also be stated that on page 1333
19 the prosecution witness SHIDEHARA at that time denied
20 receiving official reports and said he only heard
21 rumors. See his answer at line 18, page 1333.
22 This matter was not only repetitious then, but it was
23 covered again on redirect examination at record page
24 1384 over objection of being repetitious and trying
25 to get the witness to change his previous answers.

1 On page 11 I refer the Tribunal to page
2 19,910, line 14, to page 19,915 where the witness
3 MINAMI on cross-examination deals with this matter
4 of DOHIHARA as not being one of his officers, and his
5 counsel admits there that DOHIHARA was not under the
6 chain of command of MINAMI.

7 THE MONITOR: Whose counsel is this, Mr.
8 Brooks?

9 MR. BROOKS: DOHIHARA's counsel, Mr. Warren;
10 and also on 19,916 and 19,917, which show that this
11 is immaterial and irrelevant besides being repetitious.

12 Now, this affidavit, if the Court will notice,
13 covers a period from September 18 to December 10,
14 1931, on three matters. Going to page 7, I will point
15 out the three matters on which I took an affidavit
16 from a prosecution witness.

17 Point 1, in the center of page 7. that War
18 Minister MINAMI reported that he also had received
19 a similar telegram from the Kwantung Army.

20 At the top of page 8, point 2, that all the
21 members of the cabinet decided upon the government
22 policy of non-expansion, which was proclaimed at home
23 and abroad on September 24 and which I offered in evi-
24 dence and it was rejected.

25 On point 3, as to the mischievous rumor

1 of the unfounded story of their being at loggerheads
2 with the War Minister, MINAMI. Now, the prosecution
3 in the cross-examination deal with point 3 at page
4 66, and the only place he touches, in my opinion,
5 on points 1 and 2 is in the first question at page
6 10, and in between the last question on page 10
7 to the last question on page 63 is cross-examination
8 on matters that are not proper and which I am object-
9 ing to in toto and which, I may state, covers that
10 portion of the cross-examination objected to by other
11 defense counsel.

12 ACTING PRESIDENT: We will adjourn until
13 1:30.

14 (Whereupon, at 1200, a recess was
15 taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Brooks.

MR. BROOKS: If the Tribunal please,
continuing my objection as to specific questions,
on June 25 and 26, 1946, the prosecution offered
exhibit 156, SHIDEHARA's affidavit, and the testi-
mony from 1318 and 1398 covered the matters from the
last question on page 10 of this Commission, exhibit
3479, to the last question on page 63 thereof.

As to the question on page 15 of this
exhibit 3479 as to the prosecution's impeaching this
witness, I wish to compare the testimony of SHIDEHARA,
line 10, page 1334, where he said as a prosecution
witness, "I merely talked to MINAMI about these
reports." The allowance of a question as set out on
page 15 of this exhibit would allow the prosecution
to impeach their own witness.

On page 20 I objected to the prosecution
document 1767A(5), marked B for identification, and
as to all the documents from C to J, I renewed this
objection as their being outside the scope of the

1 affidavit and not proper cross-examination. And as
2 Colonel Woolworth has handled MINAMI's case up until
3 this time and Mr. Carr has always handled DOHIHARA's
4 case, this suspicious circumstance in itself led me
5 to make the statement that it is not only outside the
6 scope of the affidavit and not proper cross-examination
7 but that they deal with DOHIHARA and it is an attempt
8 to introduce new evidence outside the direct examina-
9 tion through a witness who had appeared generally
10 for the prosecution and whose testimony for the
11 defense was limited in this affidavit to the three
12 matters in the individual case of MINAMI.

13 Now, as to MINAMI's denying seeing certain
14 telegrams, I have only had time to check a few
15 places but at page 19,879 of the record of 14 April
16 1947, he said that he did not see the telegram as to
17 the Self-Government Guidance Board in Mukden but
18 that SHIDEHARA spoke to him of the reports thereon.
19 I submit to the Tribunal the question of whether it
20 would discredit this witness MINAMI to show that he
21 may have been mistaken where he has not denied
22 knowledge of the rumors or reported facts therein.

23 Now see record page 19,878, line 22, and
24 19,888 to 19,892 where MINAMI reports he knew DOHI-
25 HARA was mayor for one month from the HAYASHI report.

1 affidavit and not proper cross-examination. And as
2 Colonel Woolworth has handled MINAMI's case up until
3 this time and Mr. Carr has always handled DOHIHARA's
4 case, this suspicious circumstance in itself led me
5 to make the statement that it is not only outside the
6 scope of the affidavit and not proper cross-examination
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15 places but at page 19,879 of the record of 14 April
16 1947, he said that he did not see the telegram as to
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19 I submit to the Tribunal the question of whether it
20 would discredit this witness MINAMI to show that he
21 may have been mistaken where he has not denied
22 knowledge of the rumors or reported facts therein.

23 Now see record page 19,878, line 22, and
24 19,888 to 19,892 where MINAMI reports he knew DOHI-
25 HARA was mayor for one month from the HAYASHI report.

1 All these documents offered are from Foreign Office
2 files. I submit also that that is not the best
3 evidence of their having been sent to the War Min-
4 istry and I ask why were not the War Ministry files
5 produced or accounted for as to such documents.

6 MR. COMYNS CARR: Your Honor, I submit there
7 should be a limit to the amount of repetition.

8 MR. BROOKS: Wait until I get through;
9 then you can answer.

10 MR. COMYNS CARR: I am not seeking to
11 answer. I am objecting to counsel repeating himself
12 and putting over and over again the same arguments
13 that he has put in the course of three and a quarter
14 hours of wasting the time of this Tribunal.

15 ACTING PRESIDENT: I understood that counsel
16 was referring to different specific instances.

17 MR. BROOKS: That is right. I have very
18 little more, if your Honor please. I will ignore
19 the interruption.

20 The prosecution, I submit, has set up a
21 straw man to knock down and to try to confuse the
22 issues before this Court. As evidence, go to page 36
23 where my objection is in relation to further testimony
24 as to a new regime in Manchuria, prosecution document
25 1767A(17), identified as exhibit H.

1 I submit that MINAMI does not deny knowledge
2 as to the facts set out as may be seen at page 20,063
3 of the record where MINAMI states SHIDEHARA and
4 MINAMI both sent telegrams to prevent any Japanese
5 from interfering in or participating in such move-
6 ments as were rumored.

7 Recently, at record page 32,861 and also
8 32,862, I covered these telegrams, exhibits 286
9 and 299, sent by these men and it is clear from an
10 examination here that, although MINAMI denied at the
11 time that he knew, later he found out through
12 SHIDEHARA a few days later as this evidence shows.

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1 The part on page 43 of this exhibit 3479
2 is also objected to as being an attempt to get the
3 witness to change testimony that he gave on cross-
4 examination as a prosecution witness, made at page
5 1334 and following said page; and again on page 45
6 of this exhibit 3479 another attempt was made to
7 change the testimony of SHIDEHARA here.

8 I wish to refer the Tribunal to page 1392,
9 line 17 for SHIDEHARA's statement on redirect exam-
10 ination as to the Kwantung Army having materials on
11 hand and that any idea of cutting off supplies was,
12 therefore, impossible as a step to suppress the
13 spread of the incident.

14 Again on page 49, more repetitious matter
15 is found, and I refer the Court to page 1392, line
16 17 for SHIDEHARA's previous statement thereon which
17 the prosecution again tried to get him to change at
18 page 50.

19 I refer the Court to record page 19916 and
20 19917 and to 20054 to 20056 as to the matter on
21 page 50. Here the prosecution got their former wit-
22 ness to change his testimony to a certain extent.
23 However, cross-examination later clarified this
24 somewhat. Maybe I should have said redirect.

25 As to page 55, I refer to the 14 April,

1 1947, record page 19873 to 19875 and a reference to
2 page 20061 to 20062 as to investigations made of this
3 rumor proving it to be without foundation and show-
4 ing these questions to be repetitious.

5 At page 57 I objected to all this as out-
6 side the affidavit, and I stated that to save time I
7 wished I could enter a continuing objection. This
8 would bring me down to the last question on the bot-
9 tom of page 63. The balance from there on is, in my
10 opinion, within the scope of the affidavit, possibly,
11 and admissible.

12 ACTING PRESIDENT: Mr. Furness.

13 MR. FURNESS: If the Tribunal please, I
14 understand my name was mentioned this morning, and I
15 would, therefore, like to say something with regard
16 to that. I came to Mr. Comyns Carr's room the morn-
17 ing that this Commission was to take testimony and
18 was told that they did not know whether or not my
19 client, Mr. SHIGEMITSU, would be involved in the
20 cross-examination.

21 ACTING PRESIDENT: There was nothing deroga-
22 tory said about you, Mr. Furness. I see no --

23 MR. FURNESS: But I think I should correct
24 any statement, your Honor, that mention to me was
25 made of any other defendant because I can say without

1 any hesitation that I only mentioned my client, Mr.
2 SHIGEMITSU, and Mr. Comyns Carr at the Imperial
3 Hotel said only my client would not be involved and
4 that he did not say to me that Mr. Warren's client,
5 Mr. DOHARA, might or would be involved.

6 ACTING PRESIDENT: We will let the matter
7 rest right there. Whether he did or did not say that
8 has no material bearing on the matter that we are
9 considering.

10 MR. FURNESS: I can only say that if he had
11 said any such thing to me, I would have immediately
12 tried to get in touch with General DOHARA's coun-
13 sel.

14 ACTING PRESIDENT: I do not think it is
15 necessary to follow that.

16 MR. COLYNS CARR: I didn't propose to say
17 anything about that, your Honor. I don't know if
18 the Tribunal desires to hear me on any of the entire-
19 ly new objections never mentioned before which Mr.
20 Brooks raised in the course of what was supposed to
21 be his reply to my argument on the objections which
22 had been raised.

23 THE PRESIDENT: The Tribunal does not care
24 to hear anything further. The Tribunal overrules the
25 objections made by counsel for both DOHARA and

1 MR. WARREN: May we have individual object-
2 ions on these, to us, objectionable documents?

3 ACTING PRESIDENT: You were told long ago
4 that to any adverse rulings exceptions were auto-
5 matically taken.

6 MR. WARREN: Your Honor, objections, not
7 exceptions, sir.

8 MR. COMYNS CARR: May I be heard on that,
9 your Honor?

10 ACTING PRESIDENT: Maybe I misunderstood
11 you. May I ask you to repeat your request?

12 MR. WARREN: At the time these documents
13 are read, some of them have objections inherent with-
14 in the document itself which we have never objected
15 to, and I should like to make my objection at that
16 time.

17 MR. COMYNS CARR: Your Honor, I should like
18 to be heard on that question before the Tribunal
19 gives any such permission.

20 ACTING PRESIDENT: We have heard very full
21 and lengthy discussion of your objections, and we do
22 not feel that we need any further discussion on any
23 particular.
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1 MR. WARREN: No, your Honor, some of these ob-
2 jections the Court did not permit me to go into and I
3 didn't do so, and those objections go to the document,
4 the specific document, itself which I didn't go into.
5 I have been deprived of cross-examination and if the
6 Tribunal doesn't want me to make those objections I
7 shan't do so.

8 ACTING PRESIDENT: That is the universal feel-
9 ing of the Tribunal.

10 MR. COMYNS CARR: Now I will read the cross-
11 examination, beginning at page 10, line 6. (Reading:)

CROSS-EXAMINATION

12
13 BY MR. COMYNS CARR:

14 Q Baron SHIDEHARA, I see you say that up to the
15 time of the resignation of the WAKATSUKI Cabinet you did
16 your best always in cooperation with War Minister MINAMI
17 to prevent the aggravation of the incident.

18 A Yes.

19 Q Did you have reason to suppose before the
20 incident actually occurred that something of the
21 kind was about to happen?

22 A I did. You see, I had no official informa-
23 tion; but the civilian residents in Manchuria, quite
24 many of them, four or five, they came to me, to the For-
25 eign Office, and they said that something extraordinary

1 was going on. Some young officers came to them and
2 ordered some help; they wanted certain things. I don't
3 remember what things they were, but some certain things
4 should be stored there at such place and some other things
5 should be stored at other places, and so on. They didn't
6 know why these young officers came to them and wanted
7 those things, and so they naturally became suspicious
8 that something was going on, some war-like preparation
9 might be going on; and they asked me if I had any infor-
10 mation about it. I said I had no information whatever.
11 But, as they were men who were right there in Manchuria --
12 in Mukden, in Harbin, and so forth -- and I believed
13 there must be something in those reports, I immediately
14 rung up General MINAMI, who was then Minister of War,
15 and I said I had something to talk with him.

16 He came to me, and I said that some people from
17 Manchuria came to me and asked me if I knew anything
18 about these movements of your young officers; and I also
19 became suspicious, so I said that the first thing for
20 him would be to maintain the strictest discipline among
21 these young officers there, not go out of their ordinary
22 way, but they should mind their own business, not to go
23 about seeking for some warlike materials to be stored at
24 different places.

25 THE COMMISSIONER: Is this extending beyond

1 what is relevant?

2 MR. COMYNS CARR: No. I should have continued
3 to ask about this if he hadn't told us.

4 MR. BROOKS: If your Honor please, I should like
5 to object to this. This affidavit, if the Court will
6 notice, covers a period between September 18 --

7 THE COMMISSIONER: Just a moment. Do state
8 your objection very shortly. You want to say that it
9 is not within the scope of the affidavit?

10 MR. BROOKS: That is right.

11 THE COMMISSIONER: Very well. I overrule you
12 subject to your right to raise that again before the
13 Tribunal. Will you continue then, Mr. Carr.

14 MR. COMYNS CARR: I would like the Baron to
15 continue if the court reporter will just remind him
16 where he got to.

17 MR. BROOKS: If your Honor please, I would
18 like to make another objection that it is repetitious
19 since this is also a prosecution witness, and it
20 appears that what he is talking about is right in
21 the record.

22 THE COMMISSIONER: From Baron SHIDEHARA?

23 MR. BROOKS: He has been a prosecution
24 witness, and he has testified about it.

25 THE COMMISSIONER: That objection will also

1 be noted for consideration by the Tribunal.

2 ("hereupon, the official court
3 reporter read as follows:)

4 "A ---- but they should mind their own busi-
5 ness, not to go about seeking for some warlike
6 materials to be stored at different places."

7 Q Would you continue with what you wanted to
8 say, Baron, from that point. This is what you were
9 telling General MINAMI.

10 A Yes. I wanted to tell him that this is a
11 very serious thing if the report is true, and I have
12 every reason to believe that the reports are true.
13 And he quite agreed with me, and he told me he would
14 do his level best to maintain discipline among these
15 officers. He had really been doing his level best
16 already, but I reminded him he would try again if any-
17 thing untoward might not happen.

18 Q Did he say what he would do?

19 A He didn't say what he would do, but I pre-
20 sumed that he would come into contact with the offi-
21 cers there in Manchuria.

22 Q I see. Now, after the incident broke out,
23 did you receive a number of reports from your dip-
24 lomatic and consular officers in China and Man-
25 churia?

1 MR. BROOKS: I object to that, if your
2 Honor please. The question is outside the scope of
3 this affidavit. It is not proper cross-examination.

4 THE COMMISSIONER: Yes, I permit the ques-
5 tion subject to your right to resume it before the
6 Tribunal.

7 Yes, you may answer the question, Baron
8 SHIDIHARA.

9 A Well, of course, we received a number of
10 telegrams from our consuls in Mukden, Consul General
11 in Mukden, and also from other consuls in other
12 places.

13 Q Yes. Let me just remind you of their
14 names. Was HAYASHI the Consul General in Mukden?

15 A He was, yes, sir.

16 Q And was a man named MOISHIMA acting under
17 him in Mukden?

18 A Yes, yes.

19 Q Was KIYASHI the consul General in Tientsin?

20 A KIYASHIMA? I am sure he was in Tientsin,
21 yes.

22 Q Was ARAKAWA the Consul General in Yinkow
23 and also in Niuchang?

24 A ARAKAWA? I don't remember.

25 Q You don't remember him? I may show you a

1 document regarding him. Was YAMAZAKI an official
2 of the Foreign Office in Liaoyang? Do you remember
3 him?

4 A I know him personally, but I can't say for
5 a certainty whether he was in Liaoyang or in other
6 places.

7 Was TSUKAMOTO the Governor General of
8 Kwantung?

9 A Yes.

10 Q And was YANO the Counsellor in Peiping?

11 A Yes.

12 Q Do you remember receiving reports from all
13 of those persons about what was happening in con-
14 nection with the incident?

15 A It is very difficult for me to remember.

16 Q Yes. It may be necessary for me to show
17 them to you. I thought, perhaps, we could save time
18 if you remembered. Whatever reports you got from
19 your subordinates on the spot, did you send copies
20 of them to General MINAMI?

21 A I did.

22 Q Did you supply copies to anybody else other
23 than General MINAMI?

24 A To the Prime Minister, WAKATSUKI.

25 Q Yes. Anybody else?

1 A I don't think that I had sent copies to
2 anybody else, only the Prime Minister and War
3 Minister. Of course, I also sent a copy to the
4 Navy Minister.

5 Q The Navy Minister?

6 A Yes.

7 Q But, the particular question I want to ask
8 you is, can you say whether you did or did not send
9 copies to the Chief of the General Staff?

10 A I think I did, yes. I think I did.

11 Q You think you did.

12 A Yes, I think I did.

13 Q Now, I had better ask you this: Did you
14 also, in the case of the more important ones, bring
15 them up and discuss them in the Cabinet?

16 A After the incident?

17 Q Yes, after the incident.

18 A Oh, yes.

19 MR. COMYNS CARR: I had better go through
20 them now and get you to identify them. May I have,
21 first of all, exhibit 2193, please? 2193, 4 and 6.

22 Q Is that one of those which you received and
23 which you supplied General MINAMI with a copy
24

25 It is so long time ago, it is very diffi-
cult to --

1 Q Yes, but let us try and see if we can't.
2 Do I understand you to say that you supplied General
3 MINAMI with copies of all those which you received?

4 A Practically all of those telegrams.

5 Q Yes.

6 A I don't think I made any exception.

7 Q You don't think you made any exception.

8 A I don't think I made any exception.

9 MR. COMYNS CARR: Well, in that case, per-
10 haps there is no object in going through them in
11 detail so far as they are already exhibited.

12 THE COMMISSIONER: That is for you to de-
13 cide.

14 MR. BROOKS: I was going to object to his
15 going through them. I can't see any use in going
16 through these telegrams since they are already ex-
17 hibits in evidence.

18 THE COMMISSIONER: There is no need to dis-
19 cuss it. Mr. Carr does not propose to.

20 MR. COMYNS CARR: The only other thing I
21 had better do with regard to them in detail is,
22 there are a large number from KUWASHIMA in Tientsin.

23 Q Are those included in your answer that you
24
25

1 Q Yes, but let us try and see if we can't.
2 Do I understand you to say that you supplied General
3 MINAMI with copies of all those which you received?

4 A Practically all of those telegrams.

5 Q Yes.

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19 cuss it. Mr. Carr does not propose to.

20 MR. COMYNS CARR: The only other thing I
21 had better do with regard to them in detail is,
22 there are a large number from KUWASHIMA in Tientsin.

23 Q Are those included in your answer that you
24
25

1 supplied him with copies of those?

2 A I remember that all these telegrams bearing
3 upon the Manchurian Incident, I sent a copy of these
4 telegrams to the Army and the Navy.

5 Q Yes.

6 A By the Army I mean including the General
7 Staff.

8 Q You mean both the War Minister and the
9 General Staff?

10 A Yes.

11 Q I see.

12 MR. COMYNS CARR: Then I may take that as
13 applying to all of them. There is just one name I put
14 to him which he couldn't remember. I had better
15 just show him one of them to remind him that this
16 man was one of the people. Might he look at exhibit
17 294?
18

19 MR. BROOKS: 2194 didn't you mean?

20 MR. COMYNS CARR: No, 294 this time.

21 MR. BROOKS: Well, he is giving the wrong
22 one.

23 THE COMMISSIONER: The one just now was
24 2193, the earlier one.

25 MR. COMYNS CARR: Yes, but what I am asking
for is 294.

MR. BROOKS: And you have given him 2194.

1 Q (Continuing) That is not the right one,
2 Baron. Hand it back and they will hand you the
3 right one.

4 Do you notice that that is a telegram from
5 ARAKAWA, Consul General at Yinkow, addressed to --
6 you needn't trouble to read it, Baron. But, does
7 that remind you that ARAKAWA was the Consul General
8 at Yinkow? It is dated the 13th of November, 1931.

9 A Yes. He is not the Consul General, of
10 course. He is simply Consul.

11 Q Consul, I see.

12 A Yes, but I don't remember exactly whether
13 he was posted at that time in Niuchang.

14 Q It is the same place as Yinkow?

15 A Yes.

16 Q Well, we have telegrams, amongst the ex-
17 hibits, from him to you under both names but as
18 coming from Yinkow in one case and Niuchang in the
19 other. You say they are the same place?
20

21 A Yes.

22 Q Well, I needn't ask you any more about
23 those. But now, there are certain additional tele-
24 grams which I want to ask you about which are not
25 yet exhibits.

(To Mr. Lynch) Might he have prosecution document 1767A(5), please?

1 Now, is that a telegram from Consul General
2 HAYASHI addressed to you from Lukden, dated the 21st
3 of September, 1931? You will observe there is a
4 certificate from the Foreign Ministry attached to it
5 showing that it comes from the Foreign Ministry files
6 as one sent to you on that date.

7 A Oh, yes, yes.

8 Q Can you, therefore, identify it as one of
9 those you received?

10 A Yes.

11 Q And to which your previous answer applied,
12 that there was a copy passed to General MINAMI?

13 A Yes.

14 MR. COMYNS CARR: Then I ask that it be
15 admitted in evidence.

16 THE WITNESS: Our practice is to send all
17 these copies to War Ministry and also --

18 MR. BROOKS: I object to it, your Honor,
19 as being improper. In the first place, I think it
20 shows Showa 6, 1931. It is outside the scope of
21 this affidavit. It is not even proper cross-exam-
22 ination. It deals with DOHIHARA, and it is an
23 attempt by the prosecution to put in new evidence
24
25

1 in this case, not tied up.

2 THE COMMISSIONER: Please don't elaborate be-
3 cause I do not intend to make final decisions. That is
4 the function of the Tribunal.

5 MR. BROOKS: I see.

6 THE COMMISSIONER: Subject to your objection,
7 the document will be received in evidence and marked
8 with the letter "B."

9 (Whereupon, document 1767A(5) was marked
10 prosecution exhibit "B" for identification.)

11 MR. COMYNS CARR: May it now be marked as an
12 exhibit to the present document?

13 ACTING PRESIDENT: It may be so marked.

14 CLERK OF THE COURT: Prosecution document No.
15 1767A(5) will receive exhibit No. 3479-B.

16 (Whereupon, the document above re-
17 ferred to was marked prosecution exhibit No.
18 3479-B, and received in evidence.)

19 MR. COMYNS CARR: In the ordinary course, your
20 Honor, I would read it into the transcript.

21 THE COMMISSIONER: Very well.

22 MR. COMYNS CARR: Can we dispense with it and
23 have it transcribed?

24 THE COMMISSIONER: That is convenient. If
25 the defense have no objection, it will be treated as

1 having been read at this stage, and the reporter will
2 be good enough to copy it completely into the trans-
3 cript.

4 MR. COMYNS CARR: Thank you.
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33602

SHIDEHARA

CROSS

1 Showa 6 (1931) 12910 Code Address
2 Despatched from Mukden on 21 forenoon.
3 Received: by the Ministry on Sept 21 forenoon.
4 To; Foreign Minister SHIDEHARA
5 From: Consul-General HAYASHI
6 No. 677
7 1. In view of the present situation in and
8 around the walled city of Mukden, the Commander of the
9 Japanese Army on Sept 20 1931 will place said area
10 under the temporary city administration of Japanese and
11 Chinese acting under the army in order to promote the
12 welfare of both Japanese and Chinese inhabitants.
13 1. The Mukden city administration area will
14 be limited within the walled city of Mukden and its
15 foreign settlement quarter. The South Manchurian
16 Railway zone will remain as before.
17 1. The City administration business will be
18 conducted at the Municipal Building which will be set
19 up in the main street of Hsiao Hsi Men in the walled
20 city.
21 1. The city administration business will
22 include all matters concerning Mukden City except for
23 cases otherwise provided for.
24 1. The officers of the city administration
25

1 are as follows:

2 "1. The instructions for other details will
3 be shown separately.

4 "Mayor: Colonel DOHIHARA

5 Mayoral Secretary: TOMIMURA, Junichi

6 Chief of the General Affairs

7 Section: IORIYA, Makoto

8 Chief of the Police Affairs

9 Section: TSURUOKA, Eitaro

10 Chief of the Financial Affairs

11 Section: MITANI, Suejiro

12 Chief of the Sanitary Affairs

13 Section: MORITA, Fukumatsu

14 Chief of the Public Works

15 Section of the Technical

16 Section and of the Enterprise

17 Section: YOSHIKAWA, Yasushi

18 "Resides the above other Japanese or Chinese
19 subjects will be employed to take part in the city
20 administration in accordance with the regulation to
21 be issued separately.

22 "This telegram has been sent to the places
23 mentioned in the previous message."
24

25

1 BY MR. COMYNS CARR (Continued):

2 Q Now, then, A(6) -- IPS document 1767A(6).

3 (To the Commissioner) Are they to be
4 numbered now, your Honor?

5 THE COMMISSIONER: I am giving them letters,
6 and the proceedings of the Commission will go in as
7 one of its documents including these exhibits.

8 A Yes, it must be true.

9 Q You see the certificate attached to it?

10 A Yes.

11 Q A telegram from Consul General HAYASHI at
12 Mukden to yourself, dated the 28th of September,
13 1931.

14 A 28th of September, yes.

15 Q And I am not repeating the question every
16 time, whether you passed a copy to General MINAMI,
17 because I am taking your answer as covering all.

18 A Yes.

19 MR. COMYNS CARR: Will that be C?

20 THE COMMISSIONER: That will be received
21 in evidence and marked with the letter "C."

22 MR. BROOKS: I wish to make an objection at
23 the proper time.

24 THE COMMISSIONER: Subject to the objection
25 tendered by the defense.

1 (Whereupon, document 1767A (6)
2 was marked prosecution exhibit "C" for
3 identification.) (End of reading)

4 MR. COMYNS CARR: May it now be marked in
5 this proceeding?

6 ACTING PRESIDENT: It may be so marked.

7 CLERK OF THE COURT: Prosecution document
8 No. 1767A(6) will receive exhibit No. 3479-C.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution exhibit
11 No. 3479-C, and received in evidence.)

12 MR. COMYNS CARR (Reading):

13 "From Consul General HAYASHI at Mukden to
14 Foreign Minister SHIDEHARA

15 "Despatched: From Mukden 28 Sept. 1931 PM

16 "Received : 28 Sept. 1931 PM

17 "Telegram No. 794 (cipher)

18 "According to what DOIHARA told MORIOKA, it is
19 scheduled that the Local Preservation Committee
20 organized at this time to maintain peace and order in
21 the city of Mukden, should be led and gradually made
22 into the central organ of administration and a dis-
23 tinguished Chinese should later be appointed as Mayor,
24 chosen by this committee. Furthermore, he said that it
25 was decided that the self-defence corps now under the

1 command of our KEMPEITAI should be transferred to the
2 above Peace Preservation Committee and unified under
3 the name of the Peace Maintenance Corps, and it was
4 further decided to have them organize a considerable
5 number of policemen. It is said that to date 1000
6 rifles were delivered for this purpose.

7 "Telegrams transmitted to China, Peiping,
8 Nanking, Tientsin and to each consul in Manchuria."
9 BY MR. COMYNS CARR (Continued):

10 Q Then 1767A(7). Is that a telegram from
11 Consul General HAYASHI to yourself dated the 3rd of
12 October, 1931? Again you will see the certificate
13 and the file.

14 A Yes, that must be true.

15 MR. COMYNS CARR: And that will be D.

16 THE COMMISSIONER: Prosecution document
17 1767A(7) will be received in evidence and marked
18 with the letter "D" subject to the reservation and
19 objection by the defense.
20

21 (Whereupon, document 1767A(7)
22 was marked prosecution exhibit "D" for
23 identification.) (End of reading)

24 MR. COMYNS CARR: And I ask that it be marked.

25 ACTING PRESIDENT: It will be so admitted.

CLERK OF THE COURT: Prosecution document
1 No. 1767A(7) will receive exhibit No. 3479-D.

2 (Whereupon, the document above re-
3 ferred to was marked prosecution exhibit
4 No. 3479-D, and received in evidence.)

5 MR. COMYNS CAHR (Reading):

6 "From Consul-General HAYASHI at Mukden to
7 Foreign Minister SHIDEHARA

8 "Dispatched: from Mukden 3 Oct. 1931 P.M.

9 Received: 4 Oct. 1931 P.M.

10 "Telegram No. 857 (Cipher - Secret)

11 "There was a rumor on the 3rd among a certain
12 circle of the Japanese residents here that the organiza-
13 tion of the Liaoning Autonomous Government with Yuan
14 Chin-Kai as its leader had been decided upon. A message
15 to this effect is said to have been wired to Japan proper.
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1 This is a pure fabrication, and I heard that Yuan,
2 for instance, told a certain influential Japanese
3 that such a nonsensical report was extremely embarrass-
4 sing/to him/.

5 "As for the origin of the incorrect telegram
6 mentioned above, I guess that our newspapermen were
7 informed that on the 2nd, yesterday, Col. DOIHARA
8 summoned Ting Chien-Hsiu, a member of the local /Peace/
9 Preservation Committee and persuaded him to open finan-
10 cial and business offices; that Ting replied that since
11 the matter was of great importance, he would answer one
12 way or the other after thorough deliberation with the
13 leaders, and he retired. They added their own imagina-
14 tion to this, and tying it up with the establishment of
15 a new regime, they spread propaganda about it as if it
16 were an actual fact. Furthermore, in regard to the
17 above-mentioned request by DOIHARA, Yuan Chin-Kai, Ting
18 Chien-Hsiu. and others cannot foresee the future policy
19 of the Japanese Army. It seems that they, hearing of
20 the recent formation in Chinchow of the Liaoning Pro-
21 vincial Government through the instigation of Chang Hsueh
22 Liang, are of the opinion that it is impossible in the
23 present situation for the local Peace Preservation Com-
24 mittee, which is merely an organ, to keep public order in
25 the walled city of Fukden, to start such important

SHIDEHARA

CROSS

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administrative organs as financial and business offices.

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"(RESTRICTED)

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"Transmitted to China, Peiping, Nanking,

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Tientsin, and to every consul in Manchuria."

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1 Q Now, 1767A(8), please. Is that a telegram
2 from Consul General HAYASHI at Mukden to yourself,
3 dated the 6th of October, 1931?

4 A Yes.

5 MR. COMYNS CARR: May that be marked E?
6 Tendered in evidence.

7 THE COMMISSIONER: Subject to the objection
8 of the defense, document 1767A(8) will be received
9 in evidence and marked with the letter "E."

10 (Whereupon, document 1767A(8)
11 was marked prosecution exhibit "E" for
12 identification.) (End of reading)

13 MR. COMYNS CARR: And I ask that it now be
14 received in evidence and marked.

15 ACTING PRESIDENT: It will be received in
16 evidence and marked.

17 CLERK OF THE COURT: Prosecution document
18 No. 1767A(8) will receive exhibit No. 3479-E.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution exhibit
21 No. 3479-E, and received in evidence.)

22 MR. COMYNS CARR (heading):

23 "From: Consul-General HAYASHI at Mukden

24 To : Foreign Minister SHIDEHARA

25 "Dispatched: Mukden, Oct. 6, 1931, P.M.

1 Q Now, 1767A(8), please. Is that a telegram
2 from Consul General HAYASHI at Mukden to yourself,
3 dated the 6th of October, 1931?

4 A Yes.

5 MR. COMYNS CARR: May that be marked E?
6 Tendered in evidence.

7 THE COMMISSIONER: Subject to the objection
8 of the defense, document 1767A(8) will be received
9 in evidence and marked with the letter "E."

10 (Whereupon, document 1767A(8)
11 was marked prosecution exhibit "E" for
12 identification.) (End of reading)

13 MR. COMYNS CARR: And I ask that it now be
14 received in evidence and marked.

15 ACTING PRESIDENT: It will be received in
16 evidence and marked.

17 CLERK OF THE COURT: Prosecution document
18 No. 1767A(8) will receive exhibit No. 3479-E.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution exhibit
21 No. 3479-E, and received in evidence.)

22 MR. COMYNS CARR (reading):

23 "From: Consul-General HAYASHI at Mukden

24 To : Foreign Minister SHIDEHARA

25 "Dispatched: Mukden, Oct. 6, 1931, P.M.

SHIDEHARA

CROSS

33,611

1 Received : Oct. 6, 1931, P.M.
2 "Telegram No. 874 (Cipher, restricted)
3 Re: My telegram No. 808
4 "The Four Peoples Preservation Committee, whose
5 president is Kan Chao-Hsi, is an organization whose
6 establishment as a complete religious and charitable
7 organization to extend relief to the poor has been
8 authorized by the municipal office. Lately, with the
9 above Four Peoples Preservation Committee as the basis,
10 YOSHII, Kiyoharu and others, in conspiracy with Kan
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1 Chao-Hsi and others, are planning the establishment
2 of the new political regime and it is a fact that they
3 are trying to negotiate with the army.

4 "It is said that the military authorities re-
5 cognized that this maneuver would not only effect a
6 bad influence upon the Local Peace Preservation Committee
7 supported by the army but would also be contrary to
8 their fundamental policies, and on the fifth, Col.
9 DCIHARA and gendarmerie detachment Commander Mitani
10 admonished Lieut. General Ishimitsu, who came with
11 Yoshii, that it was very unfortunate that he was being
12 taken advantage of by such an adventurer as Yoshii and
13 advised Yoshii to resign voluntarily."
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1 Q Now, document 1767A(9), please. Is that a
2 telegram from Consul General HAYASHI to yourself
3 dated the 16th of October, 1931?

4 A Yes, I am sure.

5 MR. COMYNS CARR: May that be received in
6 evidence?

7 THE COMMISSIONER: Subject to the objection
8 of the defense, that will be received in evidence,
9 being document 1767A(9), and marked with the letter
10 "F".

11 (Whereupon, document 1767A(9)
12 was marked prosecution exhibit "F" for
13 identification.) (End of reading)

14 MR. COMYNS CARR: I ask that it now be received
15 in evidence.

16 ACTING PRESIDENT: Admitted in evidence.

17 CLERK OF THE COURT: Prosecution document
18 No. 1767A(9) will receive exhibit No. 3479F.

19 (Whereupon, the document above re-
20 ferred to was marked prosecution exhibit
21 No. 3479F and received in evidence.)

22 MR. COMYNS CARR: (Reading)

23 "From: Consul-General HAYASHI at Mukden.

24 "To: Foreign Minister SHIDEHARA

25 "Dispatched: From Mukden, 16 October 1931, PM

1 "Received: 16 October 1931, PM

2 "Telegram No. 995 (Cipher)

3 "Although the Municipal Government office here
4 had been composed, as you know, of Japanese section
5 chiefs under Mayor Col. DOIHARA, in accordance with the
6 stabilization of public peace, preparations are
7 steadily being made under a policy of having the local
8 preservation committee appoint a Chinese Mayor and have
9 Chinese as chiefs of every section as soon as possible.
10 After the above appointments have been decided it is the
11 plan of the army to have every Japanese resign from their
12 present posts and to utilize Japanese experts as advisors
13 in every field. I request that the above be withheld
14 from the press for the time being.

15 "Transmitted to the Minister, Peiping,
16 Nanking, Tsingtao, Tsinan, Tientsin, Hankow, Canton
17 and each consul in Manchuria."

18 Q Then document 1767A(10), please, is that
19 a telegram from Consul General HATASHI to yourself
20 dated the 19th of October, 1931?

21 A That is quite right, yes.

22 THE COMMISSIONER: Subject to the same ob-
23 jection by the defense, the prosecution document
24 1767A(10) will be received in evidence and marked
25 with the letter "G".

1 (Whereupon, document 1767A(10)
2 was marked prosecution exhibit "G" for
3 identification.) (End of reading)

4 MR. COMYNS CARR: I ask that it be received
5 and marked.

6 ACTING PRESIDENT: It will be admitted.

7 CLERK OF THE COURT: Prosecution document
8 No. 1767A(10) will receive exhibit No. 3479G.

9 (Whereupon, the document above re-
10 ferred to was marked prosecution exhibit
11 No. 3479G and received in evidence.)

12 MR. COMYNS CARR: (Reading)

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SHIDEHARA

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1 "From: Consul-General HAYASHI at Mukden
2 "To: Foreign Minister SHIDEHARA
3 "Dispatched: From Mukden 19 October 1931, P. M.
4 "Received: 19 October 1931, P. M.
5 "Telegram No. 1034 (Cipher)
6 "Re: My telegram No. 995
7 "Chao Hsin-po, though recommended as Mayor
8 of Mukden by the local preservation committee flatly
9 refused to accept that post. However, upon the
10 earnest advice of Col. DOIHARA, he accepted that
11 post on the 18th. Therefore, it has been arranged
12 that within the next two or three days, as soon as
13 the preparations for the taking over of the business
14 of municipal administration are completed Chao will
15 formally assume the post of Mayor, and Mayor DOIHARA
16 and all the Japanese section chiefs will resign from
17 their posts.
18 "This telegram has been transmitted to China,
19 Peiping, Nanking, Tientsin, Harbin, and Kirin."
20 Q Document 1767A(17), please. Is that a
21 telegram from Consul General HAYASHI to yourself dated
22 the 27th of October 1931?
23 A Yes.
24 THE COMMISSIONER: That is tendered, is it?
25 MR. COLYNS CARR: That is tendered.

1 THE COMMISSIONER: Subject to the objection
2 by the defense, document 1767A(17) will be received
3 in evidence and marked with the letter "H."

4 ("Whereupon, document 1767A(17)
5 was marked prosecution exhibit "H" for
6 identification). (End of reading.)

7 MR. COMYNS CARR: And now may it be received
8 in evidence, your Honor?

9 ACTING PRESIDENT: It is now admitted in
10 evidence.

11 CLERK OF THE COURT: Prosecution document
12 No. 1767A(17) will receive exhibit No. 3479H.

13 ("Whereupon, the document above
14 referred to was marked prosecution exhibit
15 No. 3479H and received in evidence.)

16 MR. COMYNS CARR (Reading):

17 "From Consul-General HAYASHI at Mukden

18 "To Foreign Minister SHIDEHARA

19 "MUKDEN, Dispatched. P. M., October 27, 1931.

20 "Received: P. M., October 27, 1931.

21 "Telegram No. 1122 (Code, Restricted)

22 "Telegram from me to Tientsin

23 "No. 17

24 "HSIEH-CHIEH-SHIH visited me on 27th and
25 confided in me as follows:

1 "By making a cat's paw of LO CHEN-YU, some
2 of the members of the staff of the Kwantung Army
3 attempted at first to draw out Emperor HSUAN TUNG
4 to Manchuria, but this plan did not make much head-
5 way owing to the Emperor having backed out as a
6 result of KASHII, Commander of the Japanese Garrison
7 Troops at Tientsin, having advised the Emperor to be
8 prudent. Therefore they, by dispatching a certain
9 UEZUMI (T.N.?), a political free lancer, to Tientsin
10 later on in order to consult Battalion Commander
11 SAKAI, possessing radical views, had planned to
12 kidnap the Emperor to Tangku, where he was to be
13 put into a cargo-boat and then landed at Yingkow;
14 however, this plan could not be realized due to the
15 strict watch kept by the Japanese police at the
16 Emperor's residence. Consequently, it has been
17 arranged to newly entrust Col. DOIHARA with the afore-
18 mentioned mission, and the Colonel left here secretly
19 for Tientsin via Dairen with a political free lancer
20 named Takeshi OTANI on the evening of the 26th. (Free
21 lancer Tetsusuburo IUDO might perhaps join this party
22 from Dairen). On arriving at Tientsin they are ex-
23 pected to resort to some suitable measure for
24 executing the plan.
25

"Furthermore, the other day Staff Officer

1 MIURA of the Garrison Troops came on a visit here
2 for liaison purpose in this matter.

3 "This wire has been relayed to the Foreign
4 Minister, Ambassador To China and Peiping."

5 Q Then 1767A(12), please. (End of reading).
6

7 MR. BROOKS: If your Honor please, in
8 copying this into the record on page 35 of the record,
9 if you will refer to the exhibit, they left out the
10 words, "(Copy No. 4-1-205)." I think that we should
11 have this shown in the record when it is recopied
12 again that that does appear at the first part of the
13 telegram. The reason I say that, there is no cer-
14 tificate as to its being a copy of the original or
15 anything of that nature.

16 MR. COLYNS CARR: I have no objection, if
17 my friend pleases.

18 MR. BROOKS: IPS document No. 1767A(17),
19 and immediately under that, if you notice, it says,
20 "(Copy No. 4-1-205)," if your Honor please, and that
21 does not appear at page 35 on this copy. It was left
22 out.

23 MR. COLYNS CARR: There is a certificate
24 attached to it, as your Honor will see if you look at
25 the exhibit at the end of the record, that it is an
official document in the custody of the Foreign

1 MIURA of the Garrison Troops came on a visit here
2 for liaison purpose in this matter.

3 "This wire has been relayed to the Foreign
4 Minister, Ambassador To China and Peiping."

5 Q Then 1767A(12), please. (End of reading).

6 MR. BROOKS: If your Honor please, in
7 copying this into the record on page 35 of the record,
8 if you will refer to the exhibit, they left out the
9 words, "(Copy No. 4-1-205)." I think that we should
10 have this shown in the record when it is recopied
11 again that that does appear at the first part of the
12 telegram. The reason I say that, there is no cer-
13 tificate as to its being a copy of the original or
14 anything of that nature.

15 MR. COLYNS CARR: I have no objection, if
16 my friend pleases.

17 MR. BROOKS: IPS document No. 1767A(17),
18 and immediately under that, if you notice, it says,
19 "(Copy No. 4-1-205)," if your Honor please, and that
20 does not appear at page 35 on this copy. It was left
21 out.

22 MR. COLYNS CARR: There is a certificate
23 attached to it, as your Honor will see if you look at
24 the exhibit at the end of the record, that it is an
25 official document in the custody of the Foreign

1 Ministry.

2 MR. BROOKS: I do not dispute that, your
3 Honor. I said that there was no certificate that
4 this was a certified, true copy of the original.

5 MR. COMYNS CARR: Continuing to read at
6 the top of page 37 --

7 MR. BROOKS: If the Tribunal please, will
8 that correction be made? There was no ruling.

9 ACTING PRESIDENT: It may be made.
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1 Ministry.

2 MR. BROOKS: I do not dispute that, your
3 Honor. I said that there was no certificate that
4 this was a certified, true copy of the original.

5 MR. COMYNS CARR: Continuing to read at
6 the top of page 37 --

7 MR. BROOKS: If the Tribunal please, will
8 that correction be made? There was no ruling.

9 ACTING PRESIDENT: It may be made.
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1 MR. COMYNS CARR: (Reacing)

2 Q Then 1767A(12), please. Is that a telegram
3 from Consul General HAYASHI at Mukden to yourself
4 dated November 7, 1931?

5 A Yes.

6 MR. COMYNS CARR: I tender that in evidence,
7 your Honor.

8 THE COMMISSIONER: Subject to the objection
9 of the defense, document 1767A(12) will be received
10 in evidence and marked with the letter "J."

11 I am stating these as subject to objection.
12 Are they all subject to objection?

13 MR. BROOKS: Yes, they are, your Honor.

14 THE COMMISSIONER: Very well. Please don't
15 elaborate. We needn't take the time.

16 (Whereupon, document 1767A(12) was
17 marked prosecution exhibit "J" for identifi-
18 cation.)

19 (End of reacing)

20 MR. COMYNS CARR: And I ask that it be received
21 in evidence and so marked -- be marked as an exhibit
22 now.

23 ACTING PRESIDENT: It will be admitted in
24 evidence.

25 CLERK OF THE COURT: Prosecution document

1 No. 1767A(12) will receive exhibit No. 3479-I.

2 (Whereupon, the document above
3 referred to was marked prosecution exhibit
4 No. 3479-I and received in evidence.)

5 MR. BROOKS: I wish to make the same state-
6 ment, your Honor, in regard to this document and ask
7 that the words "(Copy No. 4-1-264)" be inserted.
8 It has been left out.

9 ACTING PRESIDENT: What is the importance
10 of your request, Captain Brooks?

11 MR. BROOKS: There is no certificate of
12 authenticity that this is an authentic, a certified,
13 true copy of the original, and it goes to the weight
14 of the document, the probative value of the document,
15 if something arises on it later. It shows that it is
16 a copy, not the original. I wanted the record to
17 show exactly what the document shows so that later on
18 if it does become important we can raise it at that
19 time. I am not saying that it isn't a true copy; I
20 can't say. Neither can the prosecution.

21 ACTING PRESIDENT: The record will so show.

22 MR. COMYNS CARR: I might just say, your
23 Honor, that the witness has testified that there were
24 copies of all these copies made at the time for circu-
25 lation to the persons he has named; and these two

1 copies, like the other documents which are the origi-
2 nals, come from the Foreign Office files.

3 Has it been marked, this one?

4 CLERK OF THE COURT: Yes.

5 MR. COMYNS CARR: (Reading)

6 "From Consul-General HAYASHI at Mukden to
7 Minister SHIDEHARA for Foreign Affairs.

8 "(No. 4-1-264, Copy)

9 "Mukden Dispatched a.m. November 7, 1931.

10 "Received p.m. November 8, 1931.

11 "Telegraph No. 1221 (Secret Code).

12 "Referring to outgoing telegram No. 1211.

13 "As the result of pressure being brought upon
14 Yuan Chin-Kai by the Army Headquarters on the night of
15 the 6th, in the morning of the 7th the Local Peace
16 Preservation Committee held an executives' meeting
17 and decided to add to the decree on acting for the
18 regime the words that it would sever relations with the
19 old regime of Chang Hsueh-liang and the National Govern-
20 ment as required by the Army, and this is to be pub-
21 lished on the 8th.

22 "Relayed this wire to China, Peiping and
23 Tientsin."
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1 Q Then document 1767A(11), please. Is that
2 a telegram from Consul General HAYASHI to yourself
3 dated the 28th of October, 1931?

4 A Yes, that is quite right, yes.

5 MR. COMYNS CARR: I tender that one, your
6 Honor, but the translation of the last sentence is
7 rather imperfect in English, and I propose to supply
8 a better one. Perhaps, if I might read the last
9 sentence as it should read when better translated,
10 that can go into the record, or if I hand the cor-
11 rected copy to the court reporter, may it go in in
12 that form?

13 THE COMMISSIONER: Very well. And, if the
14 defense challenge that translation, perhaps they
15 will be good enough, before the proceedings of the
16 Commission are read, to examine it.

17 MR. BROOKS: If your Honor please, we have
18 one of the arbiters here. Can he compare it right
19 now and check it?

20 MR. COMYNS CARR: By all means. Hand the
21 original to the witness, and I will hand my proposed
22 improved translation. You will see it written in
23 pencil on the bottom in place of what is mimeographed
24 in the last sentence.

25 THE COMMISSIONER: Will you proceed to read

1 Q Then document 1767A(11), please. Is that
2 a telegram from Consul General HAYASHI to yourself
3 dated the 28th of October, 1931?

4 A Yes, that is quite right, yes.

5 MR. COMYNS CARR: I tender that one, your
6 Honor, but the translation of the last sentence is
7 rather imperfect in English, and I propose to supply
8 a better one. Perhaps, if I might read the last
9 sentence as it should read when better translated,
10 that can go into the record, or if I hand the cor-
11 rected copy to the court reporter, may it go in in
12 that form?

13 THE COMMISSIONER: Very well. And, if the
14 defense challenge that translation, perhaps they
15 will be good enough, before the proceedings of the
16 Commission are read, to examine it.

17 MR. BROOKS: If your Honor please, we have
18 one of the arbiters here. Can he compare it right
19 now and check it?

20 MR. COMYNS CARR: By all means. Hand the
21 original to the witness, and I will hand my proposed
22 improved translation. You will see it written in
23 pencil on the bottom in place of what is mimeographed
24 in the last sentence.

25 THE COMMISSIONER: Will you proceed to read

SHIDEHARA

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1 what you suggest is the better translation?

2 MR. COLYNS CARR: Well, I have handed my
3 only copy of that to the arbiter. When the lang-
4 uage arbiter has had the opportunity of looking at
5 it, he can tell us; and if he approves, then that
6 copy can go into the record.

7 THE COMMISSIONER: Yes. Meanwhile, go on
8 with your other documents.

9 MR. COLYNS CARR: Meanwhile, the letter
10 will be I for that.

11 THE COMMISSIONER: Yes. Very well. Prose-
12 cution document 1767a(11), subject to the objection
13 of the defense, will be received in evidence and
14 marked with the letter "I."

15 (Whereupon, document 1767a(11)
16 was marked prosecution exhibit "I" for
17 identification.)
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(End of reading)

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2 MR. CCLYNS CARR: And I ask that the document
3 with the translation as amended by the language
4 arbiter, which appears in the record and was copied
5 into it by the Commissioner's directions, be now
6 received in evidence and marked "I."

7 ACTING PRESIDENT: It will be received in
8 evidence, but you have already got an "I."

9 Suppose you get that straightened out during
10 the recess. We will recess for fifteen minutes.

11 (Whereupon, at 1445, a recess was
12 taken until 1500, after which the proceed-
13 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 MR. COMYNS CARR: Your Honor, with regard
4 to the slight confusion in the lettering of those
5 two exhibits, by agreement with Mr. Brooks, we
6 suggest that A-12, which was marked in the
7 Commissioner's report "J" but has now been marked
8 "I", should be marked "J", as in the Commissioner's
9 report. The marking should be changed, and that
10 A-11, which I am now coming to, should be marked
11 "I". That will not only avoid confusion in the
12 report but will also preserve the continuity of
13 date.

14 LR. BROOKS: The defense agrees with the
15 prosecutor's remarks, if your Honor please.

16 ACTING PRESIDENT: That change will be made.

17 CLERK OF THE COURT: Prosecution document
18 No. 1767-A(12) will receive exhibit No. 3479-J, and
19 prosecution document No. 1767-A(11) will receive
20 exhibit No. 3479-I.

21 (Whereupon, the documents above
22 referred to were marked prosecution exhibit
23 Nos. 3479-J and 3479-I, respectively, and
24 received in evidence.)

25 MR. COMYNS CARR: In this one also, there

1 is an omission in the record, which my friend
2 desires me to mention. In the exhibit, as shown
3 at the end of the record, there appear the words,
4 "Copy No. (blank)".

5 (Reading Continued)

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1 "From: Consul-General YAHASHI at Mukden

2 "To : Foreign Minister SHIDEHARA

3 "Despatched: From Mukden 28 Oct. 1931, P.M.

4 "Received: 28 Oct. 1931, P.M.

5 "Telegram No. 1126-2 (cipher)

6 "(c) In a prefecture a prefectural Autonomy
7 Guidance Committee shall be established under the
8 supervision of the Local Autonomy Guidance office.
9 It shall guide and supervise the prefectural Autonomy
10 Executive Committee and the Guidance Committee shall
11 be actually occupied by Japanese.

12 "(d) Furthermore, a policy was decided upon
13 to provide separately, an autonomy inspection office
14 for the inspection of the prefectural autonomy, and
15 to establish an Autonomy Guidance Members' Training
16 Center for the training of the Autonomy Guidance mem-
17 bers. The Autonomy Guidance office is said to be
18 comprised of youth league members in the employe of
19 the South Manchurian Railway.

20
21 "(III) On the 28th, the military called
22 together the garrison commanders and the provost
23 marshals of the various areas to support this policy.
24 At this meeting, Chief of the Staff, MIYAKE, gave
25 instructions that this enforcement of the local auto-
nomy and the policy mentioned above shall be

1 absolutely a matter of the internal relations, and
2 shall never be revealed outwardly, for we are aiming
3 at the practical effects, as since among the various
4 prefectures, there are many which are steadily
5 succeeding in their administration in enforcing the
6 present autonomy system. Therefore clear instruc-
7 tions were issued that special attention be given to
8 the aforesaid points and every effort made towards
9 the realization of local autonomy in accordance with
10 conditions in each area and subject to what had been
11 recognized as suitable /in each case/.

12 "Transmitted to China, Peiping, and all the
13 consuls in Manchuria."

14 (End reading.)

15 The Tribunal will notice that that is
16 evidently the second part of a telegram, the first
17 part of which is missing. The number is 2 and the
18 beginning in the middle of the lettering.

19 Continuing the reading at the top of page
20 43:

21 (Reading continued.)
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1 absolutely a matter of the internal relations, and
2 shall never be revealed outwardly, for we are aiming
3 at the practical effects, as since among the various
4 prefectures, there are many which are steadily
5 succeeding in their administration in enforcing the
6 present autonomy system. Therefore clear instruc-
7 tions were issued that special attention be given to
8 the aforesaid points and every effort made towards
9 the realization of local autonomy in accordance with
10 conditions in each area and subject to what had been
11 recognized as suitable /in each case/.

12 "Transmitted to China, Peiping, and all the
13 consuls in Manchuria."

14 (End reading.)

15 The Tribunal will notice that that is
16 evidently the second part of a telegram, the first
17 part of which is missing. The number is 2 and the
18 beginning in the middle of the lettering.

19 Continuing the reading at the top of page
20 43:

21 (Reading continued.)
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1 Q Now, Baron, was it apparent to you from
2 the various reports you were getting from these
3 consuls that the army in Manchuria -- the Kwantung
4 Army was not, in fact, complying with the directions
5 which you tell us you and General MINAMI had agreed
6 that he should give them?

7 A That is quite true. They were not observing
8 the decisions of the Cabinet.

9 Q And as that was repeatedly brought to your
10 notice, did you take any further steps to try and
11 get General MINAMI to compel them to do so?

12 A I have often told MINAMI of what was then
13 happening there in Manchuria, but my impression was
14 that he practically had no power to control these
15 men.

16 Q Was it no power or no desire?

17 A I am sure he had every desire to put into
18 force -- put into practice what was discussed and
19 determined at the Cabinet Council, but his idea or
20 his order was not, in fact, obeyed by his subordin-
21 ates in various parts of Manchuria.

22 Q Did you ask him why he did not recall those
23 subordinates who wouldn't obey his order?

24 A There are so many of these subordinate
25 officers there that I was, I remember -- that

1 suggestion was made at the Cabinet Council, but MINAMI,
2 he looked very much embarrassed, and I don't think
3 he sent out orders for instructions of that kind to
4 Manchuria.

5 Q Did he say that sending instructions as to
6 what they were to do would be of no avail?

7 A I am not quite sure what he thought about
8 it, but the fact was plain that his repeated in-
9 structions and orders proved of no avail.

10 Q Now, the Cabinet could, if they had wished,
11 could they not, have stopped financial supplies to
12 the Kwantung Army?

13 A That had not been discussed at the Cabinet
14 Council.

15 Q But it was an obvious way of putting a stop
16 to it, wasn't it?

17 A I am not quite sure. It was decided in
18 the budget that whatever contained in the budget or
19 these expenses were stated in the budget, and budget,
20 when approved by the then Imperial Diet, the govern-
21 ment had to carry it into practice.

22 Q Had the budget been approved before this
23 Manchurian Incident broke out?

24 A Oh, yes, yes.

25 Q And, therefore, I take it there was no

1 provision in the budget, was there, for the addi-
2 tional expenses caused by this Manchurian Incident?

3 A I don't remember exactly whether we applied
4 for a supplementary budget. That I don't remember.
5 I think, so far as this WAKATSUKI Cabinet was in
6 power, there was no question of supplementary bud-
7 get being discussed at the Cabinet.

8 Q And where did the money come from to pro-
9 vide for the expenses of the Manchurian Incident?

10 A You see, at that time the Diet was not
11 in session; and without the approval of the Diet
12 we couldn't spend then any sum of money, but so far
13 as it is contained in the budget we have got to
14 supply the necessary expenses. So far as it is
15 approved -- contained in the budget.'

16 Q That is to say, you had to supply the War
17 Ministry with the amount of money which had been
18 voted in the budget before the incident broke out.

19 A Even after, you see, even after the inci-
20 dent broke out. The Cabinet collapsed in December,
21 you see, in the early part of December.

22 Q Yes.

23 A And a few months expenses -- well, I don't
24 know what the War Ministry did, but the War Ministry
25 could find appropriate -- ample means within the

1 limits of the budget to find out the means of
2 expenditures.

3 Q You say that according to your recollection
4 it wasn't necessary for the War Ministry to apply
5 for any further funds beyond what they already had
6 in their budget during that period?

7 A My impression is that they didn't ask for
8 any.

9 Q Well, let me just try and remind you. Do
10 you remember the troops being moved from Korea with-
11 out an Imperial order?

12 A Yes.

13 Q On the 21st of September or thereabouts.

14 A Yes.

15 Q And was there a very heated discussion in
16 the Cabinet about that proceeding?

17 A Yes, I remember.

18 Q Now, before that actually happened, had
19 General MINAMI proposed that reinforcements should
20 be sent from Korea and had the Cabinet refused to
21 agree?

22 A I don't believe that MINAMI had first pro-
23 posed that reinforcements be sent from Korea. The
24 report of the reinforcements being sent from Korea
25 came rather as a surprise to all of us.

1 Q I suggest to you that he had brought up the
2 proposal on two occasions before it happened.

3 A Korea reinforcements, do you mean?

4 Q Yes. And the Cabinet had refused to agree.

5 A I am not quite sure about this monetary --
6 it is what the Finance Minister --

7 Q No, no. I am not asking you at the moment
8 about the money. I am coming back to that in a
9 minute. What I am asking you now is whether he did
10 not on two occasions express a desire in the Cabinet
11 that he should have permission to send troops from
12 Korea into Manchuria, and did not the Cabinet on
13 each occasion refuse that permission?

14 A I am not quite certain about it.

15 Q Do you remember one occasion?

16 A No.

17 Q You don't remember any occasion at all?

18 A No, I don't remember any occasion at all.

19 Q Well, now, then, when he reported on the
20 22nd of September that, in fact, the troops had been
21 sent from Korea to Manchuria without permission, did
22 he then ask the Cabinet to provide the necessary
23 funds, and did the Cabinet agree to do so?
24

25 A I don't believe that the question of pro-
viding the funds was taken up at the Cabinet Council.

1 Q I suggest to you that the Cabinet refused
2 to express approval of what had been done but that
3 they did agree to provide the money.

4 A Do you mean that we had to ask for a sup-
5 plementary budget to cover the expenses?

6 Q That you agreed in some way or other to
7 provide the additional expense caused by these
8 troops having been sent from Korea.

9 A I don't know how that could be done. You
10 see, the budget received approval of the Diet, and
11 the Cabinet had no power to modify the budget. If
12 any additional expenditures were needed, what we
13 could do was to apply to the Diet to call for extra-
14 ordinary session of the Diet.

15 Q I am not able to suggest to you how it was
16 done, but I am definitely suggesting to you that the
17 Cabinet agreed to find that money in whatever was
18 the proper procedure. I don't mean before the
19 troops had been sent, but after they had been sent
20 the Cabinet so agreed.

21 MR. BROOKS: I think, if your Honor please,
22 that question has been asked three or four times and
23 answered. I object to it as being repetitious.
24

25 THE COMMISSIONER: Objection overruled.

A Well, I believe that I have already stated

1 that after the Incident broke out -- after the
2 reinforcements had been sent from Korea the War
3 Ministry thought that the expenditures could be de-
4 frayed within the limits of the budget, and they, as
5 I remember, didn't apply for any additional expendi-
6 ture.

7 Q Did War Minister MINAMI, if that is correct,
8 apply for the approval of the Cabinet to his approp-
9 riating part of his original budget to pay for this
10 expenditure?

11 A No, I don't remember that he did so. It
12 was not necessary. So far as it was already ap-
13 proved by the Diet, there is no need for him to go
14 to the Cabinet to ask for additional expenditures
15 so far as these expenditures could be covered within
16 the limits of the budget.

17 Q Now, was it within the power of General
18 MINAMI to apply or refuse to apply part of the
19 money already voted in the budget for the War
20 Ministry to expenses in Manchuria?

21 A I remember that so far as the WAKATSUKI
22 Cabinet was in power, the expenditures needed were
23 not such a large amount.

24 Q That may be, but what I am suggesting to
25 you is this. If no additional money was wanted

1 beyond what had already been voted, then it was
2 within the power of General MINAMI to say no part
3 of what has been voted shall be applied to expenses
4 incurred contrary to orders in this Manchurian
5 Incident. Isn't that so?

6 A The fact is that he had not asked permis-
7 sion or he had not brought up that question before
8 the Cabinet Council, so I don't know how that ques-
9 tion was dealt with there.

10 Q I am suggesting to you that it was obvious
11 that if he was really sincere in wanting to stop
12 this, he had complete power to do it in one of two
13 ways, either by refusing to find the money out of
14 his budget or by recalling those officers who were
15 not carrying out his instructions, and that he did
16 neither. Isn't that right?

17 A That is right. That is legally right. But,
18 if that would be -- you see, within his practical
19 power to do that. You see, there might be quite
20 revolution among these army men, and he would be
21 placed in a very impossible position. Perhaps he
22 thought about it and he didn't press that question
23 at the Cabinet Council.

24 Q Then is your explanation of his having done
25 nothing effective to stop it that he was afraid of

1 a revolution?

2 A Revolution might be, perhaps, a strong
3 term, but there might be wholesale indiscipline,
4 and the men there in Manchuria, without any money,
5 how could they live? You see, MINAMI had to look
6 at the question from that practical side, I thought.

7 Q Then are you telling us that it was con-
8 sidered better that a war should be carried on in
9 Manchuria contrary, as you say, to your orders than
10 that the troops in Manchuria should be left without
11 money to live?

12 A But they had already given assurance that
13 there would be no aggravation of war, and all that
14 we did was put that declaration into effect with
15 possibly less friction.

16 Q Now I'll ask you about another matter.
17 Consul HAYASHI from the very beginning had been
18 making reports extremely adverse with regard to the
19 conduct of the military in Manchuria, had he not?

20 A Yes, he was supposed to.

21 Q And you tell us that you passed on those
22 reports to General MINAMI and to the General Staff?

23 A Yes.

24 Q Now, did you know, as was proved by the
25 defense yesterday, that on the 20th of September,

1 a revolution?

2 A Revolution might be, perhaps, a strong
3 term, but there might be wholesale indiscipline,
4 and the men there in Manchuria, without any money,
5 how could they live? You see, MINAMI had to look
6 at the question from that practical side, I thought.

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19 conduct of the military in Manchuria, had he not?

20 A Yes, he was supposed to.

21 Q And you tell us that you passed on those
22 reports to General MINAMI and to the General Staff?

23 A Yes.

24 Q Now, did you know, as was proved by the
25 defense yesterday, that on the 20th of September,

1 1931, the Vice-Chief of the General Staff sent a
2 telegram to the Chief of Staff of the Kwantung Army,
3 exhibit 3422-B, paragraph 1, in the following terms:
4 "As some officials in the Japanese diplomatic and
5 South Manchurian Railway circles in Manchuria are
6 suspected of sending groundless reports about actions
7 of the Army, please endeavor to investigate their
8 sources and seriously provide all means to eliminate
9 such unpatriotic acts. I believe that the Army
10 should make a declaration of its grave resolution
11 in case unpatriotic schemes are still continued."?

12 Did you know that was what the General Staff
13 in Tokyo was telegraphing to Mukden about your
14 Consul General there?

15 A Well, was that a telegram from the General
16 Staff?

17 Q General Staff in Tokyo to the Chief of
18 Staff in Mukden.

19 A In Mukden.

20 Q Or in Manchuria, wherever he was.

21 A Well, they haven't sent me a copy of that
22 telegram. I have no knowledge whatever.

23 Q Well, let's just carry that a little fur-
24 ther. Was there a man named MORISHIMA who was the
25 head of the Asiatic Bureau in your ministry?

1 A Yes.

2 Q That is a different man from the MORISHIMA
3 who was assistant consul in Mukden.

4 A Yes.

5 Q Now, did that MORISHIMA go, I suppose on
6 your order, to Mukden to investigate matters at
7 first hand?

8 A That he should go to Mukden to investigate
9 the incident?

10 Q Yes, or did you send him to Mukden for any
11 purpose in September, 1931?

12 A I don't think I did. There was the Consul
13 General there, HAYASHI, and I don't think there was
14 any additional -- any special reason for sending
15 another man from Tokyo.

16 Q What I am suggesting is that MORISHIMA was
17 sent from Tokyo, the Section Chief of the Asia
18 Bureau, to see HAYASHI and find out for himself what
19 was happening there.

20 A Well, that is not impossible.

21 Q Let me try and refresh you with what I am
22 going to suggest he reported when he came back. Did
23 he say that he had said to HAYASHI, "The Cabinet does
24 not want this incident to enlarge. Therefore, I want
25 you to bear that in mind in handling all matters"?

1 And did he say that Consul General HAYASHI had
2 replied, "That is practically impossible"?

3 A Well, what date was that?

4 Q At some time before the 2nd of October,
5 1931. That is to say, in the last week of September
6 or just at the beginning of October.

7 A No, I don't remember.

8 Q Did he say that the situation in Manchuria
9 was such that the incident had only a tendency to
10 expand further?

11 A No, I don't remember whether he reported
12 that to me.

13 Q Did he say that even the life of Consul
14 General HAYASHI was in danger?

15 A Possibly, but I don't remember.

16 Q Well, now, you've heard what the General
17 Staff were telegraphing about HAYASHI to the Chief
18 of Staff in Manchuria. Wouldn't be surprising if
19 HAYASHI's life was in danger, would it?

20 A Probably so. His life may be in danger.
21 But everybody's life was in danger, including my-
22 self. My own life was in danger.

23 Q Yes, I realize that. Did MORISHIMA report
24 that the militarists in Manchuria considered HAYASHI
25 an obstacle and there was an indication of an at-

1 tempted assassination?

2 A I don't know if there was any attempt at
3 assassination of HAYASHI.

4 Q Now, I am coming now to something which I
5 think may help you to remember this report of
6 MORISHIMA's. Did MORISHIMA report to you that the
7 condition there was such that even the commander in
8 chief of the Kwantung Army was in a state of re-
9 striction to quarters?

10 A I heard that, yes.

11 Q Yes. I thought you had heard that. And
12 did you not hear it from MORISHIMA? I am reminding
13 you now. Don't you think it was from MORISHIMA
14 that you heard it?

15 A I don't know whether I learned it from
16 MORISHIMA, but I heard that from somewhere, and it
17 was an open secret at that time. Nobody could
18 approach the commander in chief, the commander of the
19 Kwantung Army himself. If anybody should go there
20 and apply for interview with him, the subordinate
21 officers would come and say no, you shouldn't approach
22 direct to the commander.
23

24 Q Did MORISHIMA report that three staff
25 officers of the Kwantung Army, ISHIHARA, HANATANI
 and ITAGAKI, were the center of activity in Man-

1 churia; and, since the Chief of Staff of the Kwan-
2 tung Army, MIYAKE, was not at all able to control
3 his staff, the three were left to do things as they
4 pleased?

5 A I don't remember that MORISHIMA reported
6 that to me.

7 Q Did he report that when these three offi-
8 cers drank together they always boasted that this
9 plot was planned long ago?

10 A No, I don't think I --

11 Q Well, if he had so reported, it would have
12 agreed with the information that you had from the
13 businessmen from Manchuria, wouldn't it?

14 A It would. But I don't remember --

15 Q You don't remember hearing that from
16 MORISHIMA. Did he say that these men said that on
17 the 25th of July an artillery battery was already
18 ready in Mukden?

19 A 25th of July?

20 Q Yes.

21 A Next year?

22 Q Perhaps you haven't understood. What I
23 am suggesting is that these three men, according to
24 MORISHIMA, were saying that an artillery battery was
25 made ready in Mukden as early as the 25th of July.

1 A No, I hadn't heard of that. It was ready,
2 you said.

3 Was made ready, yes, on the 25th of July.
4 Had not MORISHIMA previously reported in August
5 that the Army was attempting to use the killing of
6 Captain NAKAMURA in Mongolia as a tool for the so-
7 lution of the Manchuria-Mongolian matter by enlarg-
8 ing its importance?

9 MR. BROCKS: If your Honor please, I have
10 been listening right along, and I want to object.
11 This is all outside of this affidavit. To save
12 time I wish I could enter a continuing objection.

13 THE COMMISSIONER: I cannot take it in that
14 general way. I was prepared to accept it. In regard
15 to the objection that this particular question is
16 outside the scope of the affidavit, the objection
17 is overruled and may be renewed before the Tribunal.

18 Q Do you remember MORISHIMA so reporting on
19 or about the 23rd of August 1931?

20 A It is difficult to remember all these par-
21 ticulars.

22 Q Yes.

23 A It is years, years ago.

24 Q Now, I will leave that matter, and I want
25

1 to ask you about the subject matter of the telegrams
2 from KUWASHIMA and others, about the escape of Pu-Yi
3 from Tientsin at the end of October and November
4 and his ultimate arrival in Manchuria.

5 MR. BROOKS: I object to that, your Honor,
6 as not arising out of the affidavit and also being
7 repetitious. There is an affidavit by the prosecu-
8 tion.

9 THE COMMISSIONER: The objection will be
10 noted and may be resumed before the Tribunal.

11 Q Did MINAMI take the view on that point that
12 it was a good -- it would be a good thing in due
13 course to have, at the proper time, an independent
14 Manchuria established under Pu-Yi but that it was
15 premature at the date in question, namely October
16 and November, 1931?

17 MR. BROOKS: Objection to that question.

18 A I can't --

19 MR. BROOKS: It is repetitious.

20 A (Continuing) I can't tell what MINAMI had
21 in mind with that question. I hadn't discussed with
22 him on that phase of the matter.

23 Q Did you take the same view -- that view
24 yourself?

25 A It was not only premature, it was alto-

1 gether wrong, it seems to me, that course of action.

2 (End of reading)

3 Now, may it please the Tribunal, I am
4 prepared to omit, subject to my friend's agreement,
5 from there to near the bottom of page 63 on this
6 ground; that the questions included there were based
7 on exhibit 286 and the witness pointed out errors
8 in the translation of that exhibit. It was ultimately
9 agreed to refer it to the Language Arbitration Board
10 who have reported just before this report of this
11 commission was read certain corrections in that
12 translation.. Therefore it seems to be a waste of the
13 time of the Tribunal to read a part of the cross-
14 examination which turns out to have been based on
15 an erroneous translation.
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1 MR. BROOKS: If the Tribunal please, I cannot
2 agree with the prosecutor. I state that it should be
3 read. There are two or three points in there that are
4 explained that are beneficial to the defense. Also,
5 I wish to state that the correction made by the Language
6 Arbitration Board was only on exhibit 286, and did not
7 appear in the record of the proceedings of the 19th
8 of November. I asked at the time that it be transcribed
9 as if it had been read but it was through error or
10 oversight that it was not done. However, I would like
11 to ask that the Language Arbitration Board correct
12 court record page 4356 to 4358 in accordance with their
13 correction of exhibit 286 made yesterday, 19 November,
14 and that it be spread upon the record when they do make
15 that correction. They may be able to do it now. I
16 called this to the attention of the Language Arbitration
17 Board previously and they may be prepared to do that.
18 I am not certain, your Honor. However, it can be done
19 the first thing in the morning rather than interrupt it
20 at this time. I do suggest that this be read.

21 ACTING PRESIDENT: If there are any corrections,
22 they should be made.

23 What is it that you agree on now should not be
24 read?

25 MR. BROOKS: I would say, your Honor, that

1 since this is in evidence, I would read this myself if
2 the prosecution does not intend to do so.

3 MR. COMVNS CARR: Well, your Honor, it is
4 difficult to understand, but if my friend says that, I
5 had better read it.

6 ACTING PRESIDENT: Proceed.

7 MR. COMVNS CARR: (Reading continued) Might
8 the witness see exhibit 286?

9 Q Is that your telegram sent by you to KUWASHIMA
10 in Tientsin on the 1st of November, 1931? I will be
11 directing your attention to parts of it soon. If you
12 will, just look at it and see if that is your telegram
13 or a copy thereof.

14 A Yes, this is my telegram to Tientsin, to
15 KUWASHIMA.

16 Q Yes, KUWASHIMA.

17 A November the 1st.

18 Q Yes.

19 A It says, to make Pu-Yi as the Emperor was en-
20 tirely out of question. It is an anachronism, it says.

21 Q Well, now, let us just see. What I am sug-
22 gesting is that you were instructing him that this was
23 not the right time to make Pu-Yi the Emperor but that it
24 would be a very good thing to do later on.
25

1 A No, no. This telegram doesn't signify that.

2 Q Well, let me read to you just one or two
3 passages of it. In the paragraph numbered 2, first
4 of all you say, "However, to form an independent
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1 state in Manchuria at this time would immediately
2 raise the question as being contrary to Section 1,
3 article 1 of the Washington Nine Power Pact," and so
4 on. Then a little lower down you find a portion in
5 brackets: "Even if we make it in the form of a
6 voluntary escape of the Emperor, the other Powers
7 are not likely to believe this, and it is extremely
8 difficult to keep incidents of this kind in secret."

9 A Quite so.

10 Q "In any case, the abduction of the Emperor
11 at this time would bring us into the most unfavorable
12 situation in face of the session of the Board of
13 Directors on 16 November and world opinion will again
14 be incensed and our scheme to carry out gradually our
15 actual construction work in that locality later with
16 the pacification of world opinion would be greatly
17 handicapped."

18 A No, it doesn't say anything about that. The
19 latter part, as you said.

20 MR. BROOKS: That should be referred, your
21 Honor, to the language section, that exhibit 286.
22 We've seen it. There are three mistakes in their
23 translation. It seems to be a distorted translation,
24 also in paragraph 4.

25 THE COMMISSIONER: This is rather late to

1 be doing it. But that is not a function of this
2 Commission at any event. That is a function of
3 the Court. You must make your application to the
4 Court.

5 THE WITNESS: I am afraid what you read
6 was not the right translation of the original.

7 THE COMMISSIONER: Would you be good enough
8 to translate that portion yourself, Baron SHIDEHARA?
9 That might help us.

10 THE WITNESS: The abduction of the Emperor
11 Pu-Yi would prove a great obstacle to our construct-
12 ive work to find out the solution of the question.
13 Something of that kind.

14 Q Do you say that the words "at this time" do
15 not appear?

16 A Oh, yes.

17 Q They do.

18 A Yes. But that doesn't mean that later on
19 that might become a good thing.

20 MR. COLYNS CARE: Well, your Honor, I think
21 I will not pursue this matter further with the wit-
22 ness at this stage. The document, whatever the cor-
23 rect translation of it may be, speaks for itself,
24 and I will take steps to have it referred to the
25 language arbitration board.

1 THE WITNESS: But you should make just one
2 word more.

3 THE COMMISSIONER: Just a moment, please.
4 You want to say something, Baron SHIDEMARA?

5 THE WITNESS: Yes. In any case, if you
6 read the No. 3, it says, in any case, such a scheme
7 simply an anachronism to bring Pu-Yi to Manchuria as
8 the Emperor. Anachronism. Isn't a word of that
9 kind used?

10 THE COMMISSIONER: Well, it does occur.
11 "Quite erroneous of time" is the translation. I
12 don't think I will make any suggestion.

13 MR. T. OKALOTO: There are a great deal of
14 mistakes.

15 MR. COLYNS CARR: Until it has been verified.
16 It is, perhaps, unfortunate that, if the defense had
17 any objection to this translation, they hadn't
18 raised it before. But it had better be referred.

19 THE COMMISSIONER: If it is agreed on both
20 sides, then I will ask Mr. Sañó to take in hand the
21 revision of the translation of exhibit 286.

22 MR. COLYNS CARR: Thank you, yes.

23 MR. BROOKS: The whole of it.

24 MR. COLYNS CARR: The whole of it, yes, by
25 all means. That concludes my cross-examination.

1 LANGUAGE ARBITER (Mr. Sano): I recommend
2 the adoption of the revised translation of IPS in
3 lieu of the last four lines of exhibit I.

4 THE COMMISSIONER: As offered here?

5 LANGUAGE ARBITER (Mr. Sano): Yes, as
6 offered there.

7 THE COMMISSIONER: Well, that is in effect
8 then.

9 MR. COLYNS CARR: You approve of the revised
10 translation which we suggested ourselves?

11 LANGUAGE ARBITER (Mr. Sano): Yes.

12 MR. COLYNS CARR: Then will it be copied
13 into the record in that form?

14 THE COMMISSIONER: Yes, if Mr. Greenberg
15 will do so.

16 MR. COLYNS CARR: And when we serve it, it
17 will be in the revised form.

18 BY MR. COLYNS CARR (Continued):

19 Q Baron SHIDEHARA, there is one other matter
20 I should ask you about. Do you remember a Cabinet
21 meeting on the 1st of October --
22

23 THE COMMISSIONER: Of what year?

24 MR. COLYNS CARR: 1931.

25 Q (Continuing) in which you asked for a
clarification of the policy of the Japanese in Manchuria

1 churia before the opening of the meeting of the
2 League of Nations Council to be held in Geneva on
3 the 14th of that month?

4 A I think I did.

5 Q Yes. And did you suggest that the mainten-
6 ance of more than necessary troops in Manchuria,
7 and particularly in Kirin and Tungkai, would be
8 harmful to the views that foreign powers would take
9 at that meeting?

10 A Kirin --

11 Q I'm not sure that I have the name spelled
12 right. We'll take the Kirin and leave out the other
13 one.

14 A Dairen we call it. Dairon is the same
15 thing. But some other port you mentioned.

16 Q Yes. I have it spelled here: T-u-n-g-
17 k-a-i, Tungkai.

18 A Tungkao?

19 Q Don't trouble about the place names. Did
20 you raise generally the question in the Cabinet of
21 excessive troops being stationed in Manchuria on
22 that occasion?

23 A Yes, quite possible. Tungkao means Tientsin.

24 Q Well, whatever it means, you raised that
25 question. Did MINAMI propose that Japan should there

1 and then withdraw from the League of Nations?

2 A No.

3 Q Did he say, "If we withdraw troops now, the
4 situation will be very difficult for us, and we will
5 not be able to maintain control of the situation in
6 Muzhen and Kirin. In the first place, I believe it
7 is better for Japan to withdraw from the League of
8 Nations"?

9 A No, that question had never been raised.
10 I am quite sure of it.

11 Q You said the question of withdrawing from
12 the League of Nations was not discussed in the
13 Cabinet at all.

14 A So far as I remember, there was no discus-
15 sion at all. We were actively collaborating with
16 the League of Nations at Geneva, and we supplied all
17 the necessary information, and our delegates partici-
18 pated in the debates and discussions all the time.
19 And there was no occasion for MINAMI to say that we
20 should withdraw from the League of Nations.

21 Q I am suggesting to you that on two occasions --
22 and not suggesting that the rest of the Cabinet
23 agreed with it -- MINAMI advocated that instead of
24 trying to do what the League of Nations wanted, you
25 should withdraw from the League of Nations.

1 A I am almost sure -- I can say I am sure that
2 FINAMI had not raised that question.

3 MR. CONYNS CARR: That is all I have.

4 THE COMMISSIONER: Do you wish to reexamine?

5 (End of reading.)

6 MR. CONYNS CARR: And then Mr. Brooks re-
7 examined.

8 MR. BROOKS: (Reading continued:)

9 MR. BROOKS: I have a question or two.

10 REDIRECT EXAMINATION

11 BY MR. BROOKS:

12 Q In the last part of your affidavit, Mr.
13 SHIDEHARA, you said there was an unfounded story as
14 to one purporting that you had come to loggerheads
15 with War Minister FINAMI on account of maintenance of
16 opposite ideas at meetings of the Cabinet. Now, I take
17 it by that that you mean that you --

18 MR. CONYNS CARR: I must object to that ques-
19 tion as being leading.

20 MR. BROOKS: I haven't finished the question.

21 MR. CONYNS CARR: But it has begun to lead al-
22 ready before you finish it.

23 THE COMMISSIONER: You may not say what you
24 consider. You can only ask the witness to elaborate
25 what requires elaboration.

1 MR. BROOKS: I withdraw the question and
2 ask this one:

3 Q (Continuing) Were you and MINAMI having
4 opposite ideas at the meetings of the Cabinet?

5 A Not on very important questions, no.

6 Q Were you having such ideas that would have
7 led to friction between you?

8 A No.

9 Q Now, in answer to one of the prosecutor's
10 questions, you said that something might be a legal
11 point but that practically MINAMI had no choice in the
12 matter. Do you recall what you were discussing?

13 A Yes.

14 Q Under the same circumstances, Baron SHIDEHARA,
15 would you, yourself, and the Cabinet have supported
16 MINAMI's decision in that matter, or did you support
17 his decision in that matter? (End of reading.)

18 MR. BROOKS: Here I refer the Tribunal to
19 page 1334 of the record, line 22, where the witness
20 SHIDEHARA said that he agreed with MINAMI's ideas on
21 previous testimony.

22 (Reading continued:)

23 THE COMMISSIONER: What matter is it, because
24 I am at a loss to understand what you mean?
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MR. COMYNS CARR: I don't know what --

THE COMMISSIONER: What particular decision
are you referring to, Mr. Brooks?

MR. BROOKS: The question of the prosecutor.
I don't know how to put it myself.

Q Do you understand what I am talking about to
you?

A I don't understand it exactly.

Q The supply of money.

1 A Oh, the supply of money.

2 Q And you said that this supply of money--
3 this was a legal point and there was a practical
4 point. Now can you answer my question?

5 A Yes.

6 Q Did you and the cabinet approve of the
7 action that MINAMI actually took under the circum-
8 stances?

9 THE COMMISSIONER: Approve of what action?

10 MR. BROOKS: Of any action -- of making a
11 decision of that nature at that time.

12 MR. COMYNS CARR: I am afraid the question
13 isn't clear to me if I had to answer it.

14 THE COMMISSIONER: I just do not understand
15 the question. Making what decision or what action?

16 MR. BROOKS: Was there any decision made?

17 THE COMMISSIONER: About what?

18 A The decision was that we should try to do
19 our best to localize the incident, not to bring about
20 aggrandizement of the situation.

21 Q Would you say that MINAMI did his best to
22 support the Cabinet in doing -- bringing about the
23 localizing of the incident?

24 A His intention was, certainly, to localize
25 the incident to prevent aggravation of the incident.

1 Q Would you say that MINAMI had it in his
2 power to have prevented the further expansion of
3 the incident?

4 A He had, I believe, a legal power, yes.

5 Q What do you mean by that 'legal power'?

6 A Well, it is under the law -- existing law
7 he could send any order to his subordinates, but he
8 probably looked at the question from a broader point
9 of view: whether that would bring any deterioration
10 of the whole situation in Manchuria. . (End of reading)

11 I want to refer the Tribunal to pages 19,916
12 and 19,917 on this point as to what MINAMI said, and
13 also I want the Tribunal to compare what the witness
14 SHIDEHARA said here with what he said at record page
15 1338, line 16, and page 1392, line 17; also to record
16 page 19,916 and 19,917, and 20,054 and 20,058.

17 (Reading continued:)

18 Q Do you mean that MINAMI, as War Minister,
19 could send an operational order to officers in the
20 field?

21 A Operational order?

22 Q Order. Do you know the difference between
23 an operation order and an administrative order?
24

25 A No, he couldn't send an operational order.
Operational order should be sent through the Chief

1 of the General Staff.

2 Q Was the Chief of the General Staff a sub-
3 ordinate of the War Minister?

4 A No. no.

5 Q Was he a higher authority or of equal rank?

6 A Well, it is difficult to say, but equal,
7 I should say. (End of reading)

8 I would like to refer the Tribunal here to
9 page 1396 to 1398, the re-cross-examination of SHIDE-
10 HARA, to show his lack of knowledge as to who was
11 responsible for the action of the army and as to the
12 High Command's functions being independent of the War
13 Minister, as proven by other evidence offered by both
14 the prosecution and the defense.

15 (Reading continued:)

16 THE COMMISSIONER: Any further questions,
17 Mr. Brooks?

18 MR. BROOKS: I think that's all.

19 THE COMMISSIONER: Very well. I will ask
20 Mr. Greenberg to prepare a transcription of the pro-
21 ceedings, and upon that being done I will report to
22 the Tribunal.

23 (Whereupon, at 1530, the proceedings
24 were concluded.) (End of reading)

25

1 MR. BROOKS: Now, if the Tribunal please, at
2 this time I wish to refer to the counts of the
3 Indictment in which MINAMI is not named.

4 ACTING PRESIDENT: I don't see how that is
5 material at this time, Captain Brooks.

6 MR. BROOKS: I have not concluded, your
7 Honor, the presentation of MINAMI's case. We only
8 postponed it for this.

9 MR. COMYNS CARR: Nevertheless, in my submis-
10 sion this is a matter for summation and not to be
11 dealt with here today.

12 ACTING PRESIDENT: You can refer us to cer-
13 tain pages of the transcript or something of that kind,
14 but so far as the various counts of the Indictment are
15 concerned, that is material at this time. It is a
16 question for summation.

17 MR. BROOKS: I am making this reference to
18 the counts in which MINAMI is not charged in the
19 Indictment for the reason that I am not offering evi-
20 dence on these counts, although the prosecution in
21 certain instances has made references to evidence
22 in matters in which the accused has not been charged,
23 and I think --

24 ACTING PRESIDENT: That is a matter for argu-
25 ment in your summation.

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22 in matters in which the accused has not been charged,
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1 MR. BROOKS: I thought that by presuming
2 the charges in which he is not named it would be
3 apparent, when the Court reaches the end of my evi-
4 dence, why I have not brought up certain matters in
5 rebuttal.

6 ACTING PRESIDENT: One of my colleagues makes
7 a very pertinent remark in that connection: that if
8 he is not charged under any count of the Indictment,
9 the Tribunal cannot find him guilty of it.

10 MR. BROOKS: I agree with that in the ordin-
11 ary circumstances, but in an Indictment with the
12 sweeping charges that are made in certain counts it
13 might be taken that by not answering on certain
14 matters I was going to refer to I am admitting or not
15 refuting those matters. I don't press it, however.

16 ACTING PRESIDENT: Well, the Court doesn't
17 want to hear it.

18 MR. BROOKS: I wish to refer to a question on
19 cross-examination at page 1378, line 21, which was
20 taken from Appendix A, Section 1, of the Indictment,
21 and submit that the prosecution does not charge the
22 WAKATSUKI Cabinet members -- government with acts of
23 aggression in Manchuria.

24 ACTING PRESIDENT: We don't want any argument
25 on that, Mr. Carr.

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2 the charges in which he is not named it would be
3 apparent, when the Court reaches the end of my evi-
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15 refuting those matters. I don't press it, however.

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17 want to hear it.

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19 cross-examination at page 1378, line 21, which was
20 taken from Appendix A, Section 1, of the Indictment,
21 and submit that the prosecution does not charge the
22 WAKATSUKI Cabinet members -- government with acts of
23 aggression in Manchuria.

24 ACTING PRESIDENT: We don't want any argument
25 on that, Mr. Carr.

1 MR. BROOKS: Does the Court hold it is argu-
2 mentative?

3 ACTING PRESIDENT: Yes.

4 MR. BROOKS: Then, I will close MINAMI's
5 case at this time, subject to the production of cer-
6 tain evidence in rebuttal of new evidence that has
7 been received here if my co-counsel, who is sick,
8 finds it necessary to do so.

9 ACTING PRESIDENT: You may present an applica-
10 tion for that at the proper time.

11 Mr. Tavenner.

12 MR. TAVENNER: If it please the Tribunal, with
13 regard to the ISHII affidavit in the MUTO phase, I am
14 now informed that although cross-examination could be
15 conducted during the first of the week by dividing
16 time between a morning and an afternoon session, the
17 witness is prepared for a serious operation on Tues-
18 day or later. We have reconsidered the entire
19 matter and under all the circumstances the prosecution
20 does not desire to insist on its right to cross-examine
21 or take further testimony by means of interrogations
22 or interrogatories. In this situation it is suggest-
23 ed that MUTO's phase be completed by the reading of
24 the affidavit at an early time. It is obviously too
25 late to begin this evening.

1 ACTING PRESIDENT: If it is agreeable to coun-
2 sel for the accused MUTO, we will take it up the first
3 thing in the morning.

4 Is there anything further to be submitted in
5 the way of translation? If so, I will ask they be
6 ready the first thing in the morning.

7 MR. BROOKS: 286 might be presented in the
8 morning.

9 ACTING PRESIDENT: We will have that in the
10 morning.

11 We will adjourn until 9:30 tomorrow morning.

12 (Whereupon, at 1600, an adjournment
13 was taken until Friday, 21 November 1947, at
14 0930.)

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21 NOVEMBER 1947

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2543	3486		Certificate of non-availability of telegrams re the conclusion of the Agreement between Japan and Germany during 1935		33690
2856-A	3487		Certificate of non-availability of telegrams notifying Ambassador OSHIMA of the non-aggravation with the German Military authorities; also re the Appointment of Ambassador OSHIMA		33691
2856-B	3487 A		Certificate of non-availability of telegrams from the Military Attache in Berlin; also the telegrams from War Minister ITAGAKI to KAWABE, Military Attache		33692
2856-C	3487-B		Certificate of non-availability of document re the German propositions re the Treaty between Japan, Germany and Italy which Major-General KASAHARA brought from Berlin in August 1938; also telegram to OSHIMA from the War Ministry re the same subject		33692

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<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pres. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2786	3480		Affidavit of ISHII, Akiho		33674
2788	3481		Certificate of non- availability of telegraphic messages re the Anti-Comintern Pact exchanged between Tokyo and Berlin		33687
2794	3482		Certificate of non- availability of tele- grams exchanged be- tween Tokyo and Berlin from 1938 to 1939 re the Anti-Comintern Pact		33688
2789	3483		Certificate of non- availability of telegram messages re the Triple Alliance exchanged between Tokyo and Berlin		33688
2824	3484		Certificate of non- availability of instruc- tions re conclusion of a Tri-partite Alliance brought by Mr. ITO's Commission to Ambassadors OSHIMA in Germany and SHIRATORI in Italy in February 1939		33689
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2859	3488		Certificate of non-availability of telegrams exchanged in 1943 between Vice-Admiral NOMURA or Naval Attache YOKOI and the Navy Ministry and the Navy General Staff		33693
2842	3489		Affidavit of MAKATA, Hidehiko		33695
2864	3490		Affidavit of NISHI, Hisashi		33696
2861	3491		Certificate of non-availability of telegrams re Air-raids over Berlin		33699
2081	3492		Affidavit of WAKAMATSU, Tadaichi		33700
2724	3493		Affidavit of KASAHARA, Yukio		33717
2630	3494		Affidavit of USAMI, Uzuhiko		33730
2651	3495		Affidavit of KAWABE, Torashiro		33761
2652 (Revised)	3496		Affidavit of KAWABE, Torashiro		33763 33764

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Of

EXHIBITS

(cont'd)

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Friday, 21 November 1947

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3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10
11 Appearances:

12 For the Tribunal, all Members sitting, with
13 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
14 WEBB, Member from the Commonwealth of Australia and
15 HONORABLE JUSTICE R. B. PAL, Member from India, not
16 sitting from 0930 to 1600; HONORABLE JUSTICE LORD
17 PATRICK, Member from the United Kingdom of Great
18 Britain, not sitting from 1330 to 1500; HONORABLE
19 JUSTICE E. H. NORTHCROFT, Member from the Dominion
20 of New Zealand, not sitting from 1445 to 1600.

21 For the Prosecution Section, same as before.

22 For the Defense Section, same as before.

23
24 (English to Japanese and Japanese

25 to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHALL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo certi-
6 fying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 Mr. Comyns Carr.

9 MR. COMYNS CARR: May it please the Tribunal,
10 yesterday the Tribunal will remember that my friend
11 Mr. Brooks insisted on that part of my cross-
12 examination of Baron SHIDEHARA being read which was
13 based upon what turned out to be an incorrect transla-
14 tion of exhibit 286. We now have that exhibit in its
15 corrected form, and I would like to know whether the
16 Tribunal would consider it convenient that it should
17 be read in that form while the matter is fresh in
18 their minds.

19 MR. BROOKS: If the Tribunal please, the
20 exhibit that learned counsel is talking about, 286,
21 has already been read and spread upon the record at
22 page 4,354 of the record of the proceedings, and the
23 correction that was to be made was to be by the Lan-
24 guage Section to correct the record for those errors
25 that do show. Reading the exhibit in a corrected

1 form at this time would still not correct those errors
2 where it has once before been read.

3 as to the cross-examination of Baron SHIDEHARA,
4 since Baron SHIDEHARA could read the original Japanese,
5 which he had in his hand, he was not being cross-
6 examined on a false or mistranslated document, and
7 since it was cross-examination by the prosecution at
8 that time, and as Baron SHIDEHARA did explain two or
9 three of the corrections that have been made by the
10 Language Section, I wanted it to appear in the record.
11 And the reason that I insisted that it be read was
12 called up by the prosecution's insisting that they
13 would like to keep it out.

14 ACTING PRESIDENT: I understand, contrary
15 to what we thought yesterday, that those corrections
16 have already been made by the Language Section and
17 have been read into the record. Is that true?

18 MR. BROOKS: That is in error, your Honor.
19 The Language Section are preparing -- and I understand
20 that the Captain is working on it right now. He thought
21 he would have it ready for this morning, but he hasn't.

22 MR. COLLYNS CLERK: Your Honor, the corrections
23 have been handed in by the Language Section piecemeal,
24 that is to say, each correction separately. But the
25 exhibit in its final form has never been read.

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22 MR. COLYNS CARR: Your Honor, the corrections
23 have been handed in by the Language Section piecemeal,
24 that is to say, each correction separately. But the
25 exhibit in its final form has never been read.

1 ACTING PRESIDENT: What were the language
2 corrections read by Captain Kraft the other day?

3 MR. COMYNS CLERK: Those were simply the cor-
4 rections separately of each piece that they thought it
5 necessary to correct.

6 ACTING PRESIDENT: Then the record has been
7 changed to accord with the proper translation, hasn't
8 it?

9 MR. COMYNS CLERK: I understand not yet. Each
10 person, each Member of the Tribunal as the thing stands
11 at present would have to do it himself by reading in
12 those corrections into the incorrect form of the docu-
13 ment. When the corrected form of record page 4,354
14 is circulated, then there will be a complete, correct
15 version of the exhibit. And if the Members of the Tri-
16 bunal prefer to look at that for themselves rather
17 than have it read now, that is quite enough for my pur-
18 pose.

19 ACTING PRESIDENT: That is what happens with
20 every correction. That is the usual way.

21 MR. COMYNS CLERK: Yes, if your Honor please.

22 ACTING PRESIDENT: We see no necessity for
23 reading the affidavit now.

24 MR. COMYNS CLERK: I would only ask that that
25 be done, that the Members of the Tribunal should read

1 it in connection with the cross-examination of Baron
2 SHIDEHARA of yesterday.

3 ACTING PRESIDENT: Mr. Cole, I understand you
4 now wish to read the affidavit of the witness ISHII,
5 being part of the evidence produced by the defendant
6 MUTO?

7 MR. COLE: Yes, sir.

8 ISHII served in the Military Affairs Bureau
9 under this accused--

10 ACTING PRESIDENT: Wait just a minute. We
11 have no copies of it and I do not think it has been
12 introduced in evidence, has it?

13 MR. COLE: (Continuing) Under this accused--

14 ACTING PRESIDENT: Mr. Cole, you have not
15 introduced this in evidence yet, as I understand it.

16 MR. COLE: No, sir. I am merely giving a sen-
17 tence or two before presenting it -- offering it.

18 ACTING PRESIDENT: Oh, I beg your pardon.

19 MR. COLE: ISHII served in the Military Affairs
20 Bureau under this accused and relates from his personal
21 knowledge General MUTO's actions and efforts in sev-
22 eral matters of importance.

23 MR. TAVENNER: If it please the Tribunal--

24 ACTING PRESIDENT: Mr. Tavenner.

25 MR. TAVENNER: Objection is made to the comments

1 that are in the process of being made on the ground
2 that they should be reserved for summation of the
3 trial -- summation, argument. The affidavit speaks
4 for itself, and we think it is improper at this stage
5 to comment upon its weight or any other matter in
6 regard to it.

7 MR. COLE: May it please the Tribunal, this
8 is merely the prepared running commentary which I
9 used in every instance where there was not a witness
10 present in court.

11 ACTING PRESIDENT: It has been customary for
12 some of the counsel at least to make comment upon the
13 evidence that they are about to produce and show its
14 connection to the prosecution's evidence. But that
15 comment should be short and should not cover anything
16 that is covered by the affidavit. It is so ruled.

17 MR. COLE: I have only half a sentence left,
18 sir.

19 These matters included attempted settlement
20 of the China Incident, the Tripartite Pact, and the
21 Japanese-American negotiations.

22 I offer now in evidence defense document
23 2786, the sworn deposition of ISHII, Akiho.

24 ACTING PRESIDENT: It will be received in
25 evidence.

1 CLERK OF THE COURT: Defense document No.
2 2786 will receive exhibit No. 3480.

3 (Whereupon, the document above re-
4 ferred to was marked defense exhibit No. 3480
5 and received in evidence.)
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1 MR. COLE: I should like to point out a
2 previously undetected error on page 3 of the English
3 version, second paragraph, second line, the word
4 "Pacific" should read "Atlantic".

5 May I say further that documents referred to
6 in this deposition are covered by our first item in
7 defense document 2860. I am sorry I do not have the
8 exhibit number at hand.

9 Omitting the formal portions:

10 "I was a Lt. Colonel and Senior staff member of
11 the Military Affairs Section when MUTO, Akira was the
12 Chief of the Military Affairs Bureau. I took charge
13 mainly of the business of diplomatic problems as they
14 affected the War Ministry. I know very well MUTO's
15 views on international problems and am well aware of
16 his difficult position as the Chief of the Military
17 Affairs Bureau. MUTO felt that early settlement of
18 the China Incident was the first requisite and always
19 advocated maintaining peaceful cooperation with other
20 countries. Three times at least I heard him oppose
21 aggressive policies.
22

23 "In the autumn of 1939, immediately after his
24 arrival at his post as Chief of the Military Affairs
25 Bureau, he ordered me to study a draft of a practical
plan of opening of the Yangtze Kiang and Chu-Kiang

1 Rivers in order to comply with American wishes. This
2 was a matter of discussion at that time. As I held the
3 concurrent post as secretary in the China Affairs Board,
4 I sat in conference several times with those concerned
5 and studied plans. The Chu-kiang River was opened by
6 the consent of parties concerned, but various difficulties
7 were encountered with regard to the opening of the
8 Yangtze, which remained closed to the last. During this
9 time I was urged at least two times by MUTO to make
10 further efforts on this matter.

11 "MUTO never insisted personally on our partici-
12 pation in the Triple Alliance among Japan, Germany and
13 Italy. Foreign Minister MATSUOKA had the whole field to
14 himself in the conclusion of the Triple Alliance. I read
15 the text of the treaty for the first time after its con-
16 clusion. None but those specially concerned even among
17 the officials of the Foreign Ministry had participated
18 in that negotiation. About the middle of April 1941,
19 when a report was made from Ambassador NOMURA on the
20 draft of an understanding between Japan and America,
21 MUTO was very much pleased and said, 'Hereby has Japan
22 been saved!'

23
24 "On a certain day in May 1941, a telegram was
25 received from a military attache to the Japanese
Embassy at Berlin to the effect that he was against the

1 negotiations between Japan and the United States of
2 America, so long as they were dependent upon the
3 secession from the Tri-Partite Alliance. HUTO ordered
4 me to send a telegram of reproof. I made out a draft
5 which stated, 'Anyone who holds a post abroad must act
6 according to the government's policy. The negotiations
7 with U.S.A. are proceeding well, based upon policies of
8 the government and the Supreme Command. Don't complain
9 of it.' When this draft of the telegram was finally
10 brought to TOJO through the Director of the Military
11 Affairs Bureau and the Vice-Minister, TOJO revised it
12 in person into a more severe one to admonish the
13 attache strictly.

14 "In the spring of 1941, America considered the
15 western half of the Atlantic as safe waters and was carry
16 ing on operations of helping England, and appeared to
17 show keen interest in the Japanese-American negotiations.
18 But at the beginning of May reliable information was
19 received to the effect that America would, in the end,
20 enter the European War, upon which the War Minister put
21 a question up to the Military Affairs Bureau as to what
22 should be done in case America should participate in the
23 war. We made answer to the effect that in such case we
24 should try not to let the war spread to the Pacific in
25 conformity with the fundamental principles of the

1 Tri-Partite Pact, regardless of Article III of that Pact.

2 "MUTO said, 'I am also of the same opinion,'
3 and reported it to War Minister TOJO and Vice-Minister
4 KIMURA. I was told by MUTO that both TOJO and KIMURA
5 were of the same opinion as he.

6 "At the beginning of June in 1941, when the
7 expectation for the outbreak of the war between Germany
8 and Soviet Union was brought to our knowledge, MUTO
9 submitted a question to us as to how we estimated the
10 progress of the war between Germany and the Soviet Union,
11 supposing that it really broke out. After a few days'
12 careful consideration, I gave as my judgment that
13 although the German Army would maintain superiority
14 during the earlier period of the war, it would ultimately
15 end the same as the China Incident. Different opinions
16 against this judgment of mine were propounded, but MUTO
17 said to me, 'I am of the same opinion as you. In case
18 of war, Japan should fall back upon the Japan-Soviet
19 Neutrality Pact and remain indifferent.' About the
20 middle of June in 1941, MUTO was bewildered with the
21 real intention of Y. MATSUOKA, Foreign Minister, who
22 advocated an aggressive policy against the Soviet Union
23 at one time and proposed Japan's advance towards the
24 south at another. About that time MUTO was taken ill,
25 and so he did not attend the Liaison Conference at the

1 end of June and the Council in the presence of the
2 Emperor on July 2nd.

3 "Directly after the Council in the presence
4 of the Emperor on September 6th, 1941, MUTO returned
5 to the War Ministry and reported the proceeding of the
6 Council, to the Chief of Military Affairs Section, the
7 Chief of Military Administration Section, and the senior
8 members of both these sections as follows:

9 "The phrase, "For the sake of self-existence
10 and self-defense" that appears in Article I means, as
11 it is literally expressed, "in order to live;" that is,
12 before our assets were frozen, to be prepared as a self-
13 sufficient state on a planned basis in spite of the
14 increase of economic pressure by the United States of
15 America and Great Britain, especially the abrogation of
16 Japanese-American Treaty of Commerce and Navigation.
17 It, however, has a more urgent and critical meaning
18 today. Secondly, the phrase "try every diplomatic
19 means" that appears in Article II means that every
20 possible means of diplomacy in our power should be tried,
21 and this Article II ought to precede Article I from
22 the point of real necessity although it follows the first
23 as a matter of literary composition.' Then he added as
24 follows: 'We must try to succeed in diplomatic
25 negotiations no matter at what cost.'

1 "Japan conceded step by step in order to
2 obtain the United States of America's consent during the
3 period from first to the latter part of September,
4 and at last an imploring proposal was made to realize
5 the KONOE-Roosevelt conference as soon as possible. As
6 for the duty under the Three Power Alliance Treaty, it
7 was suggested that we could not commit ourselves in
8 writing but expected to arrive at an understanding by
9 meeting and conferring. MUTO, together with OKA, Chief
10 of Naval Affairs Bureau, cooperated with the Foreign
11 Ministry most enthusiastically in the making of these
12 supplicating overtures.

13 "As for the withdrawal of the Japanese troops
14 from China, which was a difficult point in the negoti-
15 ations between Japan and America, it was settled at a
16 council in the presence of the Emperor on September 6th
17 to withdraw the Japanese troops from China in accordance
18 with a new agreement settled between Japan and China.
19 There was considerable discussion as to whether this
20 meant to make a new agreement or to follow the provisions
21 of the Sino-Japanese basic treaties concluded on
22 November 30, 1940. MUTO read this to mean an agreement
23 to be newly concluded after further negotiations, and
24 tried to wire to that effect to America in cooperation
25 with the Foreign Ministry. The General Staff made a

strong protest against this interpretation. On this occasion MUTO refuted it vehemently by saying in a loud voice, 'I detest the war.'

"From the above-mentioned incidents, I clearly recall that he made strenuous efforts, as the Chief of Military Affairs Bureau, to avert war between Japan and America. Informed that he was scheduled to be a member of Prince KONOE's suite at the time of the KONOE-Roosevelt talks, he was making preparations for it. At the end of September it was telegraphed from Washington that Japanese-American negotiations were not likely to succeed. MUTO said to us, 'This is critical! War should be averted at all costs because it endangers the State.' On or about October 20, 1941, that is to say, immediately after the formation of the TOJO Cabinet, TOJO, Premier and War Minister, asked for MUTO's opinion. MUTO replied, 'The people are tired of the Chinese Incident. Therefore, if you, as the premier, succeed in the Japanese-American negotiations and can settle the Chinese Incident the nation will be heartily grateful to you. You should do everything in your power as a leader of the new cabinet to accomplish Japanese diplomatic negotiations.' TOJO wholeheartedly assented to his views.

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1 "It remains still vividly in my memory that the
2 Plans A and B for the negotiations with the United
3 States of America were discussed in the Liaison Confer-
4 ence in the middle of the night of about November 1,
5 1941. The said Plan B was introduced in that confer-
6 ence fresh from the portfolio of Foreign Minister TOGO
7 without being exhibited before-hand to the Supreme
8 Command of the Army and Navy. So there was a heated
9 discussion between Chief of the General Staff SUGIYAMA
10 and Foreign Minister TOGO and the situation was said
11 to have become very serious. Therefore MUTO, who
12 acted as a mere secretary to the Liaison Conference
13 and had no vote in it, met Chief of the General Staff
14 SUGIYAMA in the corridor during a recess and told him,
15 unofficially, saying, 'It may be unreasonable for the
16 Chief of the General Staff to raise a flat objection
17 to any plan drafted by the Foreign Minister and to
18 prevent him from taking possible diplomatic means.'
19 Then, when the conference was resumed, Chief SUGIYAMA
20 agreed to Plan B and thus the plan was decided on.

21 "The above was what MUTO told me firsthand on
22 the next day at the room of the Director of the Military
23 Affairs Bureau. He, his staff, as well as the General
24 Staff authorities, were all anxious about whether or not
25 this Plan B could insure the national defense of Japan.

1 However, MUTO said, 'I told the Chief of the General
2 Staff what I believed to be the best. In case this
3 should bring bad results to our nation, I know what
4 I ought to do.' I know through the talks with those
5 of various circles that most of the readers of this
6 national policy expected the United States of America
7 to be likely to take a compromising attitude toward
8 Plan B. For instance, when MUTO asked us, his staff,
9 how America would deal with Plan B, I said, 'To such a
10 plan, America will be sure to agree,' in reply to which,
11 no objection was made by those present.

12 "The leading circles of Japan, including the
13 Army, detested war in general, though some irresponsible
14 men maintained their positive opinion. As a result, I,
15 one of MUTO's staff, not to speak of him, was criticized
16 as being weak-kneed. MUTO told us, his staff, 'War
17 Minister TOJO is desirous of success in the negotiations
18 between Japan and America.' I often took the documents
19 concerned to War Minister TOJO, when he was intent on
20 studying the Japanese-American negotiations.

21 "I left for Saigon early on the morning of
22 November 27, 1941 (Japanese time). Toward the evening
23 of the previous day, namely, November 26, I reported my
24 departure to MUTO, when he said, 'The question of war or
25 peace is not yet decided on. I ask you to struggle hard

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2 Staff what I believed to be the best. In case this
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19 concerned to War Minister TOJO, when he was intent on
20 studying the Japanese-American negotiations.

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23 November 27, 1941 (Japanese time). Toward the evening
24 of the previous day, namely, November 26, I reported my
25 departure to MUTO, when he said, 'The question of war or
peace is not yet decided on. I ask you to struggle hard

1 if war comes, otherwise we may soon meet again.' I visited
2 on that day both the Ministries of Navy and Foreign Affairs
3 to report my departure. Those whom I saw there were still
4 expecting success in the Japanese-American negotiations,
5 impatient for a favorable reply from America."

6 Document 2860, which I referred to earlier, is
7 exhibit 3466.

8 May it please the Tribunal, this concludes the
9 evidence on behalf of the accused NUTO.

10 ACTING PRESIDENT: Have you something, Captain
11 Kraft?

12 LANGUAGE ARBITER (Captain Kraft): Yes. If the
13 Tribunal please, the following language corrections are
14 submitted:

15 Referring to exhibit No. 286, record pages
16 4356 to 4358:

17 Record page 4356, line 17, delete "autonomic"
18 and substitute "self-governing."

19 ACTING PRESIDENT: Let me interrupt.

20 LANGUAGE ARBITER (Captain Kraft): Yes, sir.

21 ACTING PRESIDENT: Are not these the corrections
22 that were made the other day?

23 LANGUAGE ARBITER (CAPTAIN KRAFT:) Yes, sir, with
24 the exception that the record pages were not included
25 in those corrections that were made the other

1 day.

2 MR. BROOKS: If the Tribunal please,
3 to save time, couldn't they be copied into the record,
4 both of them? The others were not, the other day. They
5 were ordered to be but they were not. I think it would
6 save time if those could be copied into the record.

7 ACTING PRESIDENT: They may be copied into the
8 record. See that the court reporter has a copy and
9 that they are included in the record.

10 (The following are the language
11 corrections above mentioned:)

12 Record page 4356, line 17, delete "autonomic"
13 and substitute "self-governing."

14 Record page 4356, line 19, delete "controller"
15 and substitute "controlling leader."

16 Record page 4357, line 18, delete "construction"
17 and substitute "constructive."

18 Record page 4357, lines 18, 19, delete "in that
19 locality later with pacification" and substitute "on the
20 spot following the quieting down of."

21 Record page 4357, line 23, delete "Chinese
22 Nationality" and substitute "the Han race."

23 Record page 4358, lines 1-5, delete "where this
24 action would be taken as anti-revolutionary and an anti-
25 democratic stratagem is beyond our imagination" and

1 substitute ", under such slogans as anti-revolutionary
2 and as anti-democratic stratagem, is more than can be
3 imagined."

4 Also, delete "Moreover, it would make it quite
5 impossible for us to reach an understanding with China
6 forever in the future" and substitute "In which event,
7 it would create a situation likely to make it impossible,
8 ever in the future, to reach an understanding between
9 Japan and China."

10 Record page 4358, lines 7-8, delete "quite
11 erroneous of time" and substitute "which can not be
12 termed in any way other than completely anachronistic."

13 Record page 4358, lines 11-12, delete "According
14 to telegram No. 1016 addressed to me, Liu-Huan-Yeh at
15 present is" and substitute "Also, Liu-Huan-Yeh referred
16 to in telegram No. 1016 dispatched from Mukden and
17 addressed to this Minister, is at present."

18 Record page 4358, line 14, delete "Even" and
19 substitute "Actually."

20 Record page 4358, line 17, delete "erroneous of
21 time" and substitute "anachronistic."

22 Record page 4358, line 23, insert "really"
23 between "be" and "prudent."

24 ACTING PRESIDENT: Mr. Cunningham.

25 MR. CUNNINGHAM: If the Tribunal please, in view,

1 substitute ", under such slogans as anti-revolutionary
2 and as anti-democratic stratagem, is more than can be
3 imagined."

4 Also, delete "Moreover, it would make it quite
5 impossible for us to reach an understanding with China
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21 time" and substitute "anachronistic."

22 Record page 4358, line 23, insert "really"
23 between "be" and "prudent."

24 ACTING PRESIDENT: Mr. Cunningham.

25 MR. CUNNINGHAM: If the Tribunal please, in view

1 of the fact that our witnesses and documents will be
2 presented in four categories we will dispense with
3 the opening statement and use the time and occasion
4 for the explanation of each document and in explanation
5 of the purpose of the testimony of each witness. Our
6 theory of the case will be emphasized at different stages
7 of the presentation of our defense.

8 For the purpose of showing that the telegraphic
9 messages concerning the Anti-Comintern Pact exchanged
10 between Tokyo and Berlin are not available, we now offer
11 defense document No. 2788 as certificate of non-availability.

12 ACTING PRESIDENT: It will be admitted.

13 CLERK OF THE COURT: Defense document 2788 will
14 receive exhibit No. 3481.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3481 and received in evidence.)

18 MR. CUNNINGHAM: The short documents of the certi-
19 fication I will not read.

20 At this time we present certificate of the Japan-
21 ese Foreign Office for the purpose of showing that docu-
22 ments covering the negotiations over the strengthening
23 of the Anti-Comintern Pact are not available in the
24 Japanese Foreign Office. Defense document No. 2794
25 is offered in evidence.

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2 presented in four categories we will dispense with
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21 ese Foreign Office for the purpose of showing that docu-
22 ments covering the negotiations over the strengthening
23 of the Anti-Comintern Pact are not available in the
24 Japanese Foreign Office. Defense document No. 2794
25 is offered in evidence.

1 ACTING PRESIDENT: It will be admitted.

2 CLERK OF THE COURT: Defense document 2794 will
3 receive exhibit No. 3482.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3482 and received in evidence.)

7 MR. CUNNINGHAM: We now offer defense document
8 No. 2789 to show that the telegraphic messages concerning
9 the Tri-Partite Pact negotiations are not available in
10 the Office of the Minister of Foreign Affairs of Japan,
11 and are not available for presentation as evidence. We
12 offer defense document 2789.

13 ACTING PRESIDENT: It will be admitted.

14 CLERK OF THE COURT: Defense document 2789 will
15 receive exhibit No. 3483.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3483 and received in evidence.)

19 MR. CUNNINGHAM: We present certificate of
20 HAYASHI, Kaoru, the Chief of the Archives Section of
21 Japanese Foreign Office, to show that the documentary
22 evidence of the instructions concerning the negotiations
23 for the strengthening of the Anti-Comintern Pact brought
24 by Special Commissioner ITO are not in custody. We wish
25 to emphasize here that it is customary for an Embassy

1 staff to destroy all documents and papers upon opening
2 of hostilities. We offer defense document 2824 in
3 evidence.

4 ACTING PRESIDENT: It will be admitted.

5 CLERK OF THE COURT: Defense document 2824 will
6 receive exhibit No. 3484.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 3484 and received in evidence.)

10 MR. CUNNINGHAM: We now offer defense document
11 2863, which is a certificate, and will read the document.

12 ACTING PRESIDENT: It will be admitted.

13 CLERK OF THE COURT: Defense document 2863 will
14 receive exhibit No. 3485.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3485 and received in evidence.)

18 MR. CUNNINGHAM: I now read defense document
19 2863, exhibit No. 3485.

20 ACTING PRESIDENT: It doesn't seem to be on your
21 order of proof here.

22 MR. CUNNINGHAM: That is on the supplemental
23 order of proof that was distributed. It follows No. 4
24 on the list.
25

(Reading:) "I, HAYASHI, Kaoru, who occupy the

1 post of chief of the Archives Section, Foreign Office,
2 certify that the following official documents are not in
3 the custody of Foreign Office at present:

4 "1. Government instructions delivered by
5 Mr. ITO, Kitsushi to Ambassador OSHIMA in Berlin in
6 1939 on the negotiations of the Japanese-Germany-Italy
7 Treaty.

8 "2. Telegram sent by Ambassador OSHIMA to
9 Foreign Minister concerning the former's resignation
10 toward August 20, 1939.

11 "3. Telegram sent by Foreign Office to
12 Ambassador OSHIMA regarding Japanese refusal of partici-
13 pation in the Soviet-German War in 1943."

14 I now offer in evidence defense document 2543,
15 which is the certificate of the Chief of the Document
16 Section of the First Demobilization Office, showing
17 that the telegrams concerning the conclusion of the
18 agreement between Japan and Germany during 1935 are not
19 available.

20 ACTING PRESIDENT: It is admitted.

21 CLERK OF THE COURT: Defense document 2543 will
22 receive exhibit No. 3486.

23 (Whereupon, the document above
24 referred to was marked defense exhibit No.
25 3486 and received in evidence.)

1 MR. CUNNINGHAM: I offer to read the second
2 part of the certificate in quotes:

3 "All the telegrams concerning the conclusion
4 of the agreement between Japan and Germany, from Military
5 Attache OSHIMA, Hiroshi at Berlin in 1935 to the General
6 Staff Headquarters."

7 Defense document 2856-A is the certificate of
8 MIYAMA, Yozo and is offered for the purpose of showing
9 the non-availability of the telegrams notifying
10 Ambassador OSHIMA of the non-aggravation policy towards
11 China and ordering him to negotiate with the German
12 Military authorities to settle the incident, if possible.
13 Also the lack of availability of telegrams concerning the
14 appointment of Ambassador OSHIMA.

15 ACTING PRESIDENT: It will be admitted.

16 CLERK OF THE COURT: Defense document 2856-A will
17 receive exhibit No. 3487.

18 (Whereupon, the document above referred
19 to was marked defense exhibit No. 3487 and re-
20 ceived in evidence.)

21 MR. CUNNINGHAM: The explanation covers the
22 contents of the document and therefore will not be read.
23
24
25

1 Defense document 2856-B is offered for the
2 purpose of showing that the documentary proof of the
3 instructions from the Chief of the Army General Staff
4 of the Military Attache at Berlin are not available;
5 and that the telegrams from the Military Attache in Ber-
6 lin concerning the negotiations are not available; and
7 that the telegrams from War Minister ITAGAKI to KAWABE,
8 Military Attache, are not available.

9 ACTING PRESIDENT: Admitted.

10 CLERK OF THE COURT: Defense document 2856-B
11 will receive exhibit No. 3487-A.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 3487-A and received in evidence.)

15 MR. CUNNINGHAM: We now offer defense docu-
16 ment 2856-C. I offer to read the document.

17 ACTING PRESIDENT: It will be admitted.

18 CLERK OF THE COURT: Defense document No. 2856-C
19 will receive exhibit No. 3487-B.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 3487-B and received in evidence.)

23 MR. CUNNINGHAM: I offer to read this 1 and 2
24 of the document, skipping the formal parts:

25 "1. The document containing the German

1 propositions concerning the treaty between Japan, Germany
2 and Italy, which Major General KASAHARA brought from
3 Berlin in August, 1938.

4 "2. The telegram from the War Ministry or the
5 General Staff Office to OSHIMA, Military Attache,
6 concerning the same subject, dated the same month,
7 same year."

8 We now offer defense document 2859 for the
9 purpose of showing the telegrams exchanged in 1943
10 between Vice-Admiral NOMURA or Naval Attache YOKOI,
11 then both in Berlin, and the Navy Ministry and the
12 Navy General Staff, are not available; and I offer to
13 read the document.

14 ACTING PRESIDENT: It will be admitted.

15 CLERK OF THE COURT: Defense document
16 No. 2859 will receive exhibit No. 3488.

17 (Whereupon, the document above
18 referred to was marked defense exhibit
19 No. 3488 and received in evidence.)

20 MR. CUNNINGHAM: (Reading) "1. I, YOSHII,
21 Michinori, occupy the post of the Chief of the Archives
22 Section of the Second Demobilization Bureau and the
23 documents of the Second Demobilization Bureau are in my
24 custody.
25

"2. In the Second Demobilization Bureau, the

1 organ for handling the left-over business of the former
2 Navy Ministry, there does not exist any longer neither
3 the originals nor duplicates nor copies of the telegrams
4 exchanged in 1943 between Vice-Admiral NOMURA or Naval
5 Attache YOKOI, then both at Berlin, and the Navy Minis-
6 try and the Navy General Staff concerning the transfer
7 of two U-boats from Germany.

8 "3. Of the duplicates of the above telegrams
9 from Tokyo and the originals of the telegrams from
10 Berlin, those pertaining to the Navy Ministry were kept
11 in the custody of the Naval Affairs Bureau of the Navy
12 Ministry or the Navy Minister's Secretariat, and those
13 pertaining to the Navy General Staff in the custody
14 of the Second Section of the General Staff. All copies
15 of telegrams were usually kept in the custody of the
16 Telegraph Section of the Navy Ministry for one year.

17 "4. Owing to the air raid made by the American
18 forces from midnight of May 25, 1945, till the dawn
19 of the following day, the 26th, most of the Navy
20 Ministry was destroyed. The office rooms of the Navy
21 Minister's Secretariat, the various sections of the
22 Naval Affairs Bureau, the Second Section of the General
23 Staff, and the Telegraph Section were all reduced to
24 ashes with most of the documents then in their custody
25 being burned.

1 "It is recognized that the originals, dupli-
2 cates, and copies of the above telegrams were all lost
3 in the fire.

4 "5. As to the originals and duplicates of
5 the above telegrams in the custody of the Japanese
6 Embassy at Berlin, inquiries were made among ex-Admiral
7 NOKURA and all the other personnel repatriated from
8 Germany, and it has been ascertained that all of these
9 documents were burned before the surrender of Germany
10 and no one now has any copies."

11 We now offer the affidavit of deponent MAKATI,
12 for the purpose of showing that the secret documents
13 were destroyed by fire by order of the Japanese Govern-
14 ment and are not available. We wish to point out
15 here that it is customary for the Embassy to destroy
16 documents.

17 It is agreed that the witness will not have to
18 be here.

19 I offer defense document 2842.

20 ACTING PRESIDENT: Admitted in evidence.

21 CLERK OF THE COURT: Defense document
22 No. 2842 will receive exhibit No. 3489.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3489 and received in evidence.)

MR. CUNNINGHAM: Skipping the formal parts:

1
2 "I, MAKATA, Hidehiko, reside at No. 423, 2-chome
3 Nishiida-machi, Suginami-ku, Tokyo, and work at present
4 at the Business Sec. Buildings & Equipment Branch,
5 Central Affairs Bureau of the Postwar Liaison Office.

6 "1. From September, 1941, to May, 1945, I
7 served in the Japanese Embassy in Germany in the capacity
8 of a foreign affairs commissioner, and, as chief of
9 Telegraph Section, was charged with the custody of
10 secret documents.

11 "2. Air raids on Berlin became intensified
12 from about November 1943 so that by the order of my
13 superiors I destroyed from time to time our important
14 documents and telegrams by fire.

15 "When Berlin faced a catastrophe toward the
16 end of April 1945, all our secret documents left were
17 also consigned to fire."

18 Signed, "On this 5th day of November, 1947,
19 MAKATA."

20 We now offer the affidavit of deponent NISHI,
21 for the purpose of showing that the secret documents
22 of the Japanese Military Attache in Berlin were all
23 destroyed and are not available.
24

25 ACTING PRESIDENT: Admitted in evidence.

CLERK OF THE COURT: Defense document No. 2864

will receive exhibit No. 3490.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3490 and received in evidence.)
4

5 MR. CUNNINGHAM: Skipping the formal parts,
6 and starting at paragraph 2:

7 "2. During the period from January 1941
8 until Germany collapsed in May 1945, I was stationed in
9 Berlin as an Assistant Military Attache to the Japanese
10 Embassy there, and was in charge of all the secret
11 documents including telegrams to the Military Attache.

12 "3. Since November 1943 when air raids over
13 Berlin were intensified, I destroyed by fire secret
14 documents several times by order of Military Attache
15 KOMATSU. And when we left Berlin in April 1945, I
16 destroyed by burning every confidential document.

17 "4. Consequently the following documents which
18 were kept in the chamber of Military Attache in Berlin
19 do not exist at present.

20 "(1) Telegram sent in 1935 from Military
21 Attache OSHIMA to the Japanese Army General Staff con-
22 cerning the German-Japanese Agreement.

23 "(2) Various instructions issued from 1937
24 to January 1939 by the Chief of the General Staff to
25 the Military Attache in Berlin, concerning intelligence

will receive exhibit No. 3490.

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3490 and received in evidence.)
4

5 MR. CUNNINGHAM: Skipping the formal parts,
6 and starting at paragraph 2:

7 "2. During the period from January 1941
8 until Germany collapsed in May 1945, I was stationed in
9 Berlin as an Assistant Military Attache to the Japanese
10 Embassy there, and was in charge of all the secret
11 documents including telegrams to the Military Attache.

12 "3. Since November 1943 when air raids over
13 Berlin were intensified, I destroyed by fire secret
14 documents several times by order of Military Attache
15 KOMATSU. And when we left Berlin in April 1945, I
16 destroyed by burning every confidential document.

17 "4. Consequently the following documents which
18 were kept in the chamber of Military Attache in Berlin
19 do not exist at present.

20 "(1) Telegram sent in 1935 from Military
21 Attache OSHIMA to the Japanese Army General Staff con-
22 cerning the German-Japanese Agreement.

23 "(2) Various instructions issued from 1937
24 to January 1959 by the Chief of the General Staff to
25 the Military Attache in Berlin, concerning intelligence

1 against Soviet and the collection of information.

2 "(3) Telegram sent in 1937 from the Army
3 General Staff to Military Attache OSHIMA, in forming
4 Japan's policy of localizing the China Incident.

5 "(4) Instructions sent in 1937 from the Army
6 General Staff to Military Attache OSHIMA, ordering him
7 to negotiate with the German Army concerning Japan's
8 'peace movement toward China.

9 "(5) Germany's proposal made in July 1938
10 with regard to the Japan-German-Italian Treaty.

11 "(6) Telegrams sent in August 1938 from the
12 War Ministry or the General Staff to Military Attache
13 OSHIMA concerning the above treaty.

14 "(7) Telegrams sent in September and in
15 October 1938 between Military Attache OSHIMA and the
16 General Staff, with regard to the appointment of
17 Military Attache OSHIMA to the post of Japanese Ambas-
18 sador to Germany.

19 "(8) Telegram sent in May 1939 from Military
20 Attache KAWABE in Berlin to the War Ministry or the
21 General Staff concerning the Japan-German-Italian
22 'Treaty negotiations.

23 "(9) Telegram sent in the same month and
24 year from War Minister ITAGAKI to Military Attache
25 KAWABE on the above matter."

1 Signed, "NISHI, Hisashi."

2 Defense document 2861 is now offered for the
3 purpose of showing that the documents of the office
4 of the Japanese Naval Attache in Berlin were all
5 destroyed and are not available.

6 ACTING PRESIDENT: It will be admitted.

7 CLERK OF THE COURT: Defense document
8 No. 2861 will receive exhibit No. 3491.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 3491 and received in evidence.)

12 MR. CUNNINGHAM: Due to the fact that the
13 document is of the same tenor as the previous ones, I
14 will not read its contents, but will not have to account
15 for the documents when they are testified concerning.

16 I now present Mr. SHIMANOUCI, who will
17 present the first witness to the Tribunal.

18 ACTING PRESIDENT: Mr. SHIMANOUCI.

19 MR. SHIMANOUCI: I now call Witness WAKAMATSU.
20 Tadaichi, in connection with the Anti-Comintern Pact.
21

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WAKAMATSU

DIRECT

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1 T A D A I C H I W A K A M A T S U, recalled as a
2 witness on behalf of the defense, having been
3 previously sworn, testified through Japanese
4 interpreters as follows:

5 ACTING PRESIDENT: You are warned that you
6 are still on your previous oath.

7 DIRECT EXAMINATION

8 BY MR. SHIMANOUCHI:

9 Q Mr. Witness, please state your name and address.

10 A My name is WAKAMATSU, Tadaichi. My address,
11 No. 2977 Kichijoji, Musashino-machi, Tokyo.

12 MR. SHIMANOUCHI: May the witness be shown
13 defense document No. 2081?

14 (Whereupon, a document was handed to
15 the witness.)

16 Q Is that your affidavit?

17 A Yes.

18 Q Are the contents thereof true and correct?

19 A Yes.

20 MR. SHIMANOUCHI: I now tender in evidence
21 defense document 2081.

22 ACTING PRESIDENT: It will be admitted in
23 evidence.

24 CLERK OF THE COURT: Defense document
25 No. 2081 will receive exhibit No. 3492.

WAKAMATSU

DIRECT

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(Whereupon, the document above
referred to was marked defense exhibit
No. 3492 and received in evidence.)

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1 MR. SHIMANOUCHI: I now read court exhibit
2 No. 3492, omitting the formal parts, beginning with
3 the sentence following the witness' address:

4 "I was from winter of 1934 until March
5 1936 Chief of the Fourth Section of the Second
6 Division of the General Staff, from December 1940
7 until the end of March 1941 Director of the Second
8 Division in charge of matters pertaining to mili-
9 tary intelligence and information. Thereafter,
10 until December 1942 I was Director of the General
11 Division in charge of personnel administration and
12 education of the General Staff officers, as well as
13 other administrative affairs. Thereafter until
14 October 1943 I was Director of the Third Division
15 in charge of transportation and communication.

16 "2. By order of the Chief of the General
17 Staff I left Japan in November 1935 for Germany and
18 stayed in Berlin for about two weeks from the end
19 of November until the middle of December. My
20 mission was, as it was customary at that time for
21 all Japanese Military Attaches in Europe to meet at
22 certain intervals and study the information brought
23 together, to attend as a member of the General Staff
24 one of such meetings in Berlin. My second mission
25 was to see Military Attache OSHIMA in order to

1 ascertain the actual situation in Germany.

2 "With respect to my second mission mentioned
3 above a telegram from Attache OSHIMA in Berlin had
4 arrived at the General Staff prior to my departure
5 from Tokyo. Although I do not recollect now clearly,
6 its content was vague, saying that: 'Ribbentrop
7 wanted to know the view of the Japanese Army as to
8 the idea of concluding an agreement between Japan
9 and Germany providing that Japan or Germany would
10 not help Soviet Russia if a war should break out
11 between Japan or Germany and Soviet Russia.' I
12 received prior to my departure from Tokyo an oral
13 order from the Chief of the General Staff to in-
14 vestigate and find out on my visit to Germany (a)
15 the views of the German Army and Government as to
16 the agreement proposed by Ribbentrop, (b) the
17 possibility of concluding an anti-Comintern agree-
18 ment between Japan and Germany, and (c) who Ribben-
19 trop was, his position and his relations with the
20 German Government.

21
22 "3. According to an explanation given to
23 me by the Deputy Chief of the General Staff FUGIYAMA
24 the reason why the Japanese Army wanted to conclude
25 such an agreement with Germany was that Japan, being
isolated internationally as a result of the

1 Manchurian Incident was feeling greatly menaced
2 by the powerful armament of Soviet Russia which
3 was growing rapidly by the Five-Years plan; that
4 it was also necessary to frustrate the offensive
5 by Communism which is not compatible with the
6 national structure of Japan; and that the
7 approach to Germany was considered as the first
8 step for making the position of Japan more secure
9 by building up an anti-Communistic front with
10 China and Germany, both strategically important
11 to Japan, and, if possible, also with England and
12 America.

13 "4. I left Japan at the beginning of
14 November 1935, and upon my arrival in Berlin at
15 the end of that month I immediately met Military
16 Attaché OSHIMA in order to convey what I was told
17 by the Chief and the Deputy Chief of the General
18 Staff. OSHIMA understood this well and agreed to
19 it. I never heard from OSHIMA or anybody else the
20 idea to conclude this agreement with Germany in
21 order to use it for an attack or waging war against
22 China and other countries.

23 "5. I met, together with OSHIMA, Ribben-
24 trop and General Blomberg, German Minister of
25 Defense, in order to ascertain the German views as

1 Manchurian Incident was feeling greatly menaced
2 by the powerful armament of Soviet Russia which
3 was growing rapidly by the Five-Year plan; that
4 it was also necessary to frustrate the offensive
5 by Communism which is not compatible with the
6 national structure of Japan; and that the
7 approach to Germany was considered as the first
8 step for making the position of Japan more secure
9 by building up an anti-Communistic front with
10 China and Germany, both strategically important
11 to Japan, and, if possible, also with England and
12 America.

13 "4. I left Japan at the beginning of
14 November 1935, and upon my arrival in Berlin at
15 the end of that month I immediately met Military
16 Attaché OSHIMA in order to convey what I was told
17 by the Chief and the Deputy Chief of the General
18 Staff. OSHIMA understood this well and agreed to
19 it. I never heard from OSHIMA or anybody else the
20 idea to conclude this agreement with Germany in
21 order to use it for an attack or waging war against
22 China and other countries.

23 "5. I met, together with OSHIMA, Ribben-
24 trop and General Blomberg, German Minister of
25 Defense, in order to ascertain the German views as

1 to the Japanese-German agreement proposed by
2 Ribbentrop. Ribbentrop suggested on this occasion
3 that a separate anti-Communistic agreement be con-
4 cluded between Japan and Germany. I replied on
5 the basis of the above mentioned explanation by the
6 Deputy Chief of the General Staff that the Japa-
7 nese Army also had such an idea. I left Berlin in
8 the middle of December, arrived in Tokyo at the
9 end of January 1936, and reported what I found in
10 Berlin to the Chief of the General Staff.

11 "6. At that time the Japanese Ambassador
12 in Berlin was Viscount MUSHAKOJI. He was staying
13 in Japan from about the summer of 1935 until about
14 April 1936. Therefore, the Japanese Ambassador was
15 absent from Berlin at that time.

16 "Signed in Tokyo...

17 "Tadaichi WAKAMATSU"

18 You may cross-examine.

19 ACTING PRESIDENT: Mr. Tavenner.
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1 CROSS-EXAMINATION

2 BY MR. TAVENNER:

3 Q Mr. WAKAMATSU, how many telegrams from
4 Attache OSHIMA did you see before you left Japan
5 on your assignment?6 A I have no recollection at the moment, but
7 I think it was about two or three.8 Q Did these telegrams show that the character
9 of the Pact contemplated was a No-Aid Pact in the
10 event of war between the U.S.S.R. and Japan or
11 Germany?

12 A In my recollection, that fact was shown.

13 Q Had the negotiations up to that time indicated
14 the manner in which cooperation was to be given
15 between Japan and Germany in the event of hostilities?
1617 A Well, I do not know what you are pointing
18 to when you speak of negotiations. But in the
19 OSHIMA-Ribbentrop talks, in my recollection, such
20 matters were not brought up for discussion.21 Q At the time of your departure from Japan,
22 were members of the General Staff advocating a military
23 alliance with Germany?24 A At that time OSHIMA merely reported that
25 there was only some kind of a proposal submitted by
Ribbentrop and the matter had not reached any concrete

1 CROSS-EXAMINATION

2 BY MR. TAVENNER:

3 Q Mr. WAKAMATSU, how many telegrams from
4 Attache OSHIMA did you see before you left Japan
5 on your assignment?

6 A I have no recollection at the moment, but
7 I think it was about two or three.

8 Q Did these telegrams show that the character
9 of the Pact contemplated was a No-Aid Pact in the
10 event of war between the U.S.S.R. and Japan or
11 Germany?

12 A In my recollection, that fact was shown.

13 Q Had the negotiations up to that time indicated
14 the manner in which cooperation was to be given
15 between Japan and Germany in the event of hostilities?
16

17 A Well, I do not know what you are pointing
18 to when you speak of negotiations. But in the
19 OSHIMA-Ribbentrop talks, in my recollection, such
20 matters were not brought up for discussion.

21 Q At the time of your departure from Japan,
22 were members of the General Staff advocating a military
23 alliance with Germany?

24 A At that time OSHIMA merely reported that
25 there was only some kind of a proposal submitted by
Ribbentrop and the matter had not reached any concrete

1 stage whatsoever. As I have stated in my affidavit,
2 inasmuch as the proposal made by the German side
3 was vague, there was no definite opinion or any
4 advocacy among the General Staff officers with
5 regard to this matter.

6 Q That is not an exact answer to my question.
7 My question is this: Were there not members of the
8 General Staff at that time who advocated a military
9 alliance with Germany?

10 A No, there were not.

11 Q Is it not true that you were instructed by
12 the General Staff before you left Japan to advise
13 Military Attache OSHIMA to continue his investigations
14 for a military alliance?

15 A No, I was not.

16 Q Acting on the instructions of the General
17 Staff, did you deliver a secret code to OSHIMA for
18 his use in making direct and secret reports to the
19 General Staff regarding negotiations?

20 A No, there was nothing of the kind. I
21 brought a general code book for use by Japanese
22 military attaches resident in various European
23 countries. There was no case of my ever bringing
24 to Military Attache OSHIMA a special code for him.

25 Q Now, is it not true that on your arrival in

1 Germany, you learned that the German Army did not
2 want a military alliance with Japan made public
3 at that time and in consequence the Pact was changed
4 to an Anti-Comintern Pact at the suggestion of
5 Germany?

6 A No, I do not think so.

7 Q Had not the decision to convert the proposed
8 military pact into a so-called Anti-Comintern Pact
9 been made from the German side before you arrived in
10 Germany?

11 A Yes, I think so. May I add just another
12 word: That the Japanese General Staff entertained
13 the desire to enter into some kind of an agreement
14 for the purpose of protecting Japan from communism,
15 not only with Germany but with any other countries
16 who were disposed into entering into such an agree-
17 ment. And, as I have stated in my affidavit, my
18 impression of the situation at that time was that,
19 before I departed on my trip to Europe to see Military
20 Attache OSHIMA and others, there had already arisen
21 in Germany itself a desire to enter into -- to con-
22 clude an Anti-Comintern Pact, a matter which I had
23 not previously known.

24 ACTING PRESIDENT: We will recess for fifteen
25 minutes.

1 (Whereupon, at 1045, a recess was
2 taken until 1105, after which the proceed-
3 ings were resumed as follows):
4

5 - - -

6 APPEAL OF THE COURT: The International
7 Military Tribunal for the Far East is now resumed.

8 THE INTERPRETER: If the Tribunal please,
9 this is the Language Division. We wish to make a
10 slight correction of the latter part of the witness'
11 last answer.

12 ACTING PRESIDENT: Go ahead.

13 THE INTERPRETER: Thank you, sir.

14 "Upon this hope of the Japanese General Staff
15 to take some measures against Communism in mind, I left
16 for Germany. While en route to Germany the idea of an
17 Anti-Comintern Pact had arisen in Germany, and of this
18 fact we in Japan had not been informed through Military
19 Attache OSHIMA up to the time of my departure. That
20 was the situation at the time, as I understand it."

21 That is all.

22 BY MR. TAVENNER (Continued):

23 Q Now, when you arrived in Germany did you not
24 hear that the reason for the Anti-Comintern Pact being
25 suggested from the German side was that the army was
 not prepared at that time and not willing that a

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WAKAMATSU

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1 (Whereupon, at 1045, a recess was
2 taken until 1105, after which the proceed-
3 ings were resumed as follows):
4

- - -

5 REPRISAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

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9 slight correction of the latter part of the witness'
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14 as to some measures against Communism in mind, I left
15 for Germany. While en route to Germany the idea of an
16 Anti-Comintern Pact had arisen in Germany, and of this
17 fact we in Japan had not been informed through Military
18 Attache OSHIMA up to the time of my departure. That
19 was the situation at the time, as I understand it."
20

21 That is all.

22 BY MR. TAVENNER (Continued):

23 Q Now, when you arrived in Germany did you not
24 hear that the reason for the Anti-Comintern Pact being
25 suggested from the German side was that the army was
not prepared at that time and not willing that a

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1 military alliance be made public?

2 THE INTERPRETER: Mr. Tavenner, is it the
3 German Army or the Japanese Army?

4 MR. TAVENNER: German Army.

5 A I heard nothing of that.

6 Q Do you recall that the Military Attache,
7 OSHIMA, told you that he did not want the world to know
8 that Japan was aligning herself against another country
9 in a military alliance?

10 A No, I have no recollection.

11 Q You say you have no recollection. Do you mean
12 you just do not remember whether that was true or
13 whether it was not true?

14 A No, I have heard nothing about a military
15 alliance.

16 Q At any rate, the Anti-Comintern Pact as
17 finally concluded had attached to it a secret provision
18 which incorporated the original non-aid provision that
19 OSHIMA had telegraphed about; is that not true?

20 A What happened in the end I do not know be-
21 cause I did not participate in it, but at that time I
22 heard nothing of the matter.

23 Q Did you express the view that by the Anti-
24 Comintern Pact Germany would be kept from drawing too
25 close to the USSR?

1 A To whom?

2 Q To your government, or to OSHIMA, or to any
3 other person.

4 A I may have said so, because I had such an idea
5 in mind.

6 Q Did you also say, or express the view, that
7 Japan would be able by such a pact to procure intelli-
8 gence and new-type work weapons from Germany?

9 A I have no recollection of having stated that,
10 but I did have such an idea in my own mind.

11 Q Yes. Now, did you not also express the view
12 that by such a pact Germany would be prevented from
13 taking sides with China?

14 A Yes, I thought so.

15 Q Were these OSHIMA's views, also?

16 A Well, I have no clear recollection, but I
17 thought that way and I presume that probably Military
18 Attache OSHIMA entertained views which were not much
19 different from mine.

20 Q Who was the Chief of the European and American
21 Bureau of the Foreign Office at the time of your return
22 from your mission to Berlin?

23 A Mr. TOGO.

24 Q Did you make a detailed report to him of your
25 experiences in Germany, and matters relating to the

proposed pact?

1 A I did not make any detailed report, but I do
2 recall having reported to him, not immediately after,
3 but some time later, on my impressions of Germany.

4 Q Did you recommend to TOGO the need for speed
5 in the conclusion of the pact in order to preserve
6 secrecy?

7 A I have no recollection, but I may have said so.

8 MR. TAVENNER: There are no further questions,
9 if the Tribunal please.

10 THE WITNESS: However, there is one thing I
11 should like to say.

12 ACTING PRESIDENT: He wants to add something.

13 MR. TAVENNER: All right.

14 Q Does it relate to my last question?

15 A Yes.

16 Q Very well.

17 A I should like to add that I talked to Mr.
18 TOGO after my report had been submitted to the General
19 Staff Office, and the General Staff Office transferred
20 the matter to the War Ministry, and the War Ministry
21 transferred the matter to the Ministry for Foreign
22 Affairs.
23

24 MR. SHIMANOCHI: I should like to make a very
25 brief redirect.

REDIRECT EXAMINATION

1 B. MR. SHIMANOUCHI:

2
3 C. In the prosecution's cross-examination,
4 reference was made frequently to a military alliance.
5 Does this refer to any other alliance which provided
6 for non-aid on the part of either Germany or Japan
7 in case either country should engage in conflict with
8 the Soviet Union?

9 A. As I replied to the prosecutor, there was no
10 occasion for any talk of a military alliance.

11 MR. SHIMANOUCHI: This concludes my redirect.

12 I ask that the witness be released on the
13 usual terms.

14 Mr. Cunningham will now take over.

15 ACTING PRESIDENT: The witness will be so re-
16 leased.

17 (Whereupon, the witness was
18 excused.)

19 Mr. Cunningham.

20 MR. CUNNINGHAM: We now call the witness
21 KASAHARA, Yukio, who acted as a courier between OSHIMA
22 and the Japanese Army in 1938 in order to communicate
23 the German proposal of a treaty to Tokyo, and the
24 reaction of Tokyo to that proposal. The testimony of
25 this witness will show, we believe, that OSHIMA was

1 acting within the scope of his duties and in accordance
2 with instructions from Tokyc.

3 We offer the affidavit, document 2724 revised.
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1 ACTING PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If it please the Tribunal,
3 it is too late of course to object now to the type
4 of running commentary counsel has made as far as this
5 witness is concerned, but I desire to call to the
6 Tribunal's attention the apparent effort to argue
7 his case in presenting a witness, which has never
8 been approved by the Tribunal, and it is a complaint
9 that we have made on numerous occasions, especially
10 with this defense counsel. I advised defense coun-
11 sel several days that I would have to object to that
12 type of argument being made in the presentation of a
13 document or a witness. It is not necessary to make
14 the testimony understandable, and I trust the Tribunal
15 will stop comment of that type as future witnesses
16 are presented.

17 ACTING PRESIDENT: Some of this comment does
18 go beyond a mere statement of in what connection the
19 witness is called.

20 MR. CUNNINGHAM: I explained, your Honor,
21 I would dispense with the 28-page opening statement
22 and confine my remarks to a few preliminary remarks
23 in the presentation of each witness, and I think
24 it is very bad grace on the part of the prosecution,
25 after the verbosity in their opening statement

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5 witness is concerned, but I desire to call to the
6 Tribunal's attention the apparent effort to argue
7 his case in presenting a witness, which has never
8 been approved by the Tribunal, and it is a complaint
9 that we have made on numerous occasions, especially
10 with this defense counsel. I advised defense coun-
11 sel several days that I would have to object to that
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18 go beyond a mere statement of in what connection the
19 witness is called.

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21 I would dispense with the 28-page opening statement
22 and confine my remarks to a few preliminary remarks
23 in the presentation of each witness, and I think
24 it is very bad grace on the part of the prosecution,
25 after the verbosity in their opening statement

1 and all that we have had to listen to, to make a petty
2 complaint like this.

3 ACTING PRESIDENT: All I can say at this time
4 is that the Tribunal will pay no attention to any
5 statements of fact in the running commentary. We
6 will rely on the exhibit or the testimony of the
7 witness, whichever it may be, for the facts. The
8 comment should not go beyond what you might have
9 said in an opening statement.

10 - - -

11 Y U K I O K A S A H A R A, recalled as a wit-
12 ness on behalf of the defense, having been
13 previously sworn, testified through Japanese
14 interpreters as follows:

15 ACTING PRESIDENT: You are reminded that
16 you are still on your former oath.

17 MR. CUNNINGHAM: I ask that the witness be
18 shown defense document 2724.

19 (Whereupon, a document was
20 handed to the witness.)

21 DIRECT EXAMINATION

22 BY MR. CUNNINGHAM:

23 Q Will you state your name, Mr. Witness,
24 and your address?

25 A My name is KASAHARA, Yukio, and my address

1 is Obune, Shimo-naka-mura, Ashigara, shimo-gun, Kana-
2 gawa Prefecture.

3 Q Will you look at defense document 2724 and
4 state whether or not that is your affidavit?

5 A This is my affidavit.

6 Q Will you state whether or not the contents
7 thereof are true and correct?

8 A Yes, true and correct.

9 MR. CUNNINGHAM: I offer in evidence
10 defense document 2724 with the exception of paragraph
11 5, which I will not read.

12 ACTING PRESIDENT: It will be admitted on
13 that condition.

14 CLERK OF THE COURT: Defense document No.
15 2724 will receive exhibit No. 3493.

16 (Whereupon, the document above re-
17 ferred to was marked defense exhibit 3493
18 and received in evidence.)

19 MR. CUNNINGHAM: I now offer to read de-
20 fense document 2724, exhibit 3493, skipping the
21 formal parts and beginning at paragraph 2:

22 "2. I stayed in Berlin by order of the Army
23 from January 1938 until the beginning of November of
24 that year, when I left for Japan, except the period
25 mentioned below, when I returned temporarily to

1 Japan. At that time I was Major General, and was
2 supposed to be the successor to Attache OSHIMA.

3 "3. In July 1938 Attache OSHIMA told me that
4 Ribbentrop proposed the conclusion of a defensive
5 alliance between the three countries of Japan, Ger-
6 many, and Italy, and asked to ascertain the view of
7 the Japanese Army thereto. He requested me to return
8 to Japan in order to communicate this matter. I
9 left Berlin in the latter part of July, flew as far as
10 Singapore, took the boat there, and arrived in Japan
11 at the beginning of August.

12 "4. After my return I immediately explained
13 the German proposal to the Army and Navy authorities and
14 Foreign Minister UGAKI. The German proposal was to
15 the effect that political support would be given in
16 case Japan, Germany, or Italy were threatened by a third
17 power, while military assistance would be given in
18 case they were attacked. This matter made rapid prog-
19 ress, and at the end of August the Japanese policy was
20 decided upon at a Five Ministers conference. I heard
21 from Major General FACHIJIRI, Chief of the Military
22 Affairs Bureau at that time, that both the Government
23 and the Army wished to settle the China Incident as
24 early as possible. On the other hand, they feared
25 an attack by Soviet Russia and thought it necessary to

1 Japan. At that time I was Major General, and was
2 supposed to be the successor to Attache OSHIMA.

3 "3. In July 1938 Attache OSHIMA told me that
4 Ribbentrop proposed the conclusion of a defensive
5 alliance between the three countries of Japan, Ger-
6 many, and Italy, and asked to ascertain the view of
7 the Japanese Army thereto. He requested me to return
8 to Japan in order to communicate this matter. I
9 left Berlin in the latter part of July, flew as far as
10 Singapore, took the boat there, and arrived in Japan
11 at the beginning of August.

12 "4. After my return I immediately explained
13 the German proposal to the Army and Navy authorities and
14 Foreign Minister UGAKI. The German proposal was to
15 the effect that political support would be given in
16 case Japan, Germany, or Italy were threatened by a third
17 power, while military assistance would be given in
18 case they were attacked. This matter made rapid prog-
19 ress, and at the end of August the Japanese policy was
20 decided upon at a Five Ministers conference. I heard
21 from Major General NACHIJIRI, Chief of the Military
22 Affairs Bureau at that time, that both the Government
23 and the Army wished to settle the China Incident as
24 early as possible. On the other hand, they feared
25 an attack by Soviet Russia and thought it necessary to

KASAHARA

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1 be prepared for that. For those reasons such a prompt
2 decision was made. I heard also from MACHIJIRI that
3 the decision of the Five Ministers Conference approved
4 in general the German proposal, and acknowledged the duty
5 of mutual military assistance in case the contract-
6 ing powers were attacked without provocation, with
7 the qualification that Soviet Russia would be the
8 primary, and other countries the secondary, objects
9 of the military assistance. Thereupon the Army com-
10 municated forthwith this decision of the Five Ministers
11 Conference to Attache OSHIMA, and instructed him to
12 take steps so that Germany would make formal proposal
13 to Japan promptly concerning this treaty. I left
14 Tokyo at the beginning of September, arrived in Ber-
15 lin on or about 20 September and explained to Attache
16 OSHIMA the above-mentioned progress of matter and the
17 purport of the decision in Tokyo. Attache OSHIMA
18 told me that he communicated this decision of the
19 central authorities to the German side.

21 "Signed, KASAHARA, Yukio."

22 ACTING PRESIDENT: Mr. Tavenner.

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CROSS-EXAMINATION

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2 BY MR. TAVENNER:3 Q Mr. KASAHARA, you state that the decision
4 of the Five Ministers' Conference of August, 1938,
5 was communicated to Attache OSHIMA and that he was
6 instructed to take steps so that Germany would make
7 formal proposals to Japan. Was this done by telegram
8 from the War Ministry?9 A I have no clear recollection as to that but
10 ordinarily it was custom for the General Staff Office
11 to communicate such messages by telegram to the
12 Military Attaches; but in this case I am not quite
13 sure, this being a political question, whether the
14 telegram was sent by the War Ministry or by the
15 General Staff Office in accordance with established
16 custom.17 Q Did you see the telegram before it was sent
18 or after it arrived in Germany?

19 A Yes, I have seen the telegram.

20 Q What was its date?

21 A I do not recall the date but it was sometime
22 between the decision by the Five Ministers' Conference
23 and my departure for Germany.

24 Q And you departed for Germany on what date?

25 A I do not have a clear recollection of that

but I think it was the early part of September.

1 Q How early in September?

2 A On or about the 5th of September.

3 Q What was the date of the Five Ministers'
4 Conference that reached this decision?

5 A In my recollection, about the end of August.

6 Q And what date do you mean by that?

7 A That I do not now recall.

8 Q Was this a long or short telegram?

9 A I don't quite get what you mean by long
10 or short telegram.

11 Q Tell us a little more about the instruction
12 contained in the telegram which you state you saw.

13 A I do not recall exactly the contents of that
14 telegram, but the purport of that message was, as I
15 remember, to the extent to which I have set forth in
16 my affidavit and that is that revision was made to
17 the extent that it would be satisfactory to Germany
18 and accepted by Germany.

19 Q By Germany?

20 A Yes.

21 Q How many telegrams were sent before your
22 departure for Germany relating to these instructions?
23

24 A I have no exact recollection but they were
25 not sent many times; if I am not mistaken, only about

1 once.

2 Q I don't understand your answer when you
3 say not many times, about once. Does that mean
4 that there may have been more than one telegram?

5 A There may have been telegrams sent without
6 my being informed of them.

7 Q Do you know of more than one telegram?
8 That is what I am asking you.

9 A The telegram I know of is only one.

10 Q And is that the only telegram that you know
11 of sent prior to your departure for Germany?

12 A Yes, that is the only one I know.

13 Q Then if there were other telegrams you are
14 only partially informed on the subject, aren't you?

15 A Yes, that is what it would amount to.

16 Q Had OSHIMA communicated this decision of the
17 Five Ministers' Conference to Ribbentrop before you
18 arrived in Germany?

19 A Yes, I think to some extent, but whether he
20 made a full report or not I do not know. He may have
21 been waiting for my return to Berlin and, pending my
22 return, reserved part of the report.

23 Q He may have. Do you not know whether he had
24 made a report of this matter to Ribbentrop before you
25 arrived or after you arrived?

1 A Yes, I know that he gave the notification
2 either prior to my return to Germany or after.

3 Q Well, do you state whether or not you are
4 qualified to tell this Tribunal whether that was
5 done before you arrived in Germany or not, and tell
6 the Tribunal whether it was so or not?

7 A Whether he made the report to Ribbentrop
8 with reservations or without reservations I do not
9 know, but I know that OSHIMA reported to some extent.

10 Q What do you mean by "with reservations"?

11 A I think at least OSHIMA reported to some
12 extent for the time being and reserved certain details
13 and definite statements until my return to Berlin.

14 Q And those details and specifications were
15 conditions that had been placed by the Japanese
16 Government on the extent of the treaty? By extent
17 I mean the scope of the treaty.

18 A I think so but I am saying this from my
19 knowledge of the results, but I do not know what the
20 situation was then.
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1 Q Well, you have attempted to tell us in your
2 affidavit right much in detail about what occurred there
3 in Berlin. You have told us that OSHIMA made certain
4 reservations in his discussion with Ribbentrop. You
5 certainly know in a matter in which you were so vitally
6 concerned what those reservations were. Tell the
7 Tribunal what they were.

8 A I did not say he made reservations. I said it
9 was possible to make reservations. That is because
10 after I returned to Berlin Ambassador OSHIMA posed
11 certain questions to me, saying, "Isn't this a little
12 bit different or ambiguous," or words to such extent,
13 and from that I surmised that he may have made reserva-
14 tions in making the report to Ribbentrop prior to my
15 return to Berlin.

16 Q Then what did OSHIMA do about these ambiguous
17 matters that you have referred to?

18 A Well, I think he handled the matter after
19 finding out that the contents of my explanations
20 synchronized with -- was consistent with the contents
21 of the telegram from the War Ministry. It was a mis-
22 take on my part to have said "War Ministry". From the
23 Army I should have said.
24

25 Q When did you arrive in Germany?

A Sometime around the 20th of September.

1 Q How long after your arrival was it that OSHIMA
2 took the matter up again with Ribbentrop?

3 A In view of the fact that I reported to OSHIMA
4 the day I returned to Berlin, I think it was immediately
5 after that.

6 Q Now, what was the ambiguity that you say was
7 mentioned to you by OSHIMA?

8 A I think it was something with reference to
9 war participation in the event an attack was made by
10 a country other than the Soviet Union.

11 Q Did he show you the telegram and discuss it
12 with you at the time?

13 A He did not show me the telegram but I knew the
14 contents of the telegram so we discussed on the basis
15 of our knowledge of it -- we discussed the matter
16 because both of us knew the contents of the telegram.

17 Q No effort was made by OSHIMA at that time to
18 get in touch again with the government in Japan, was it?

19 A From my explanation at least he understood
20 what the situation was and on that basis communicated
21 with the German side.

22 Q I asked you if OSHIMA got in touch with the
23 Japanese government at the time that this ambiguity
24 was discussed -- so-called ambiguity was discussed
25 between the two of you.

1 A Of that I have no recollection. However, I
2 think that at least prior to the sending of the notifi-
3 cation to the German side he did not contact Japan.

4 MR. TAVENNER: I have no further questions.

5 ACTING PRESIDENT: I have a question from a
6 Member of the Tribunal.

7 Who, according to the instructions sent from
8 Tokyo, was personally in charge of securing a formal
9 proposal of treaty from Germany? OSMUNA or the
10 Japanese ambassador in Berlin?

11 THE WITNESS: May I have the question repeated?

12 (Whereupon, the Japanese court reporter
13 read.)

14 THE WITNESS: Well, my view is that -- my
15 understanding was that the official proposal was to be made
16 by the German government to the ambassador.

17 ACTING PRESIDENT: That doesn't answer the
18 question.

19 THE WITNESS: Then the question is still un-
20 clear to me.

21 (Whereupon, the Japanese court
22 reporter read.)

23 THE WITNESS: I do not know which was in charge.

24 ACTING PRESIDENT: That is all.

25 MR. TAVENNER: If the Tribunal please, on the

1 basis of that last answer I would like to ask another
2 question.

3 ACTING PRESIDENT: You may proceed.

4 BY MR. TAVENNER (Continued):

5 Q When you returned to Berlin did you go to see
6 the ambassador or did you go to see the military
7 attache, OSHIMA, in regard to this matter?

8 A I went to see Military Attache OSHIMA. I made
9 my business report to Military Attache OSHIMA but I paid
10 a courtesy visit to the ambassador.

11 Q The only occasion for your visiting the
12 ambassador was the courtesies that the occasion demanded,
13 isn't that true?

14 A Yes.

15 MR. CUNNINGHAM: That matter will be cleared
16 up later on, your Honor.

17 No further cross-examination or direct, I guess.
18 The witness may be excused on the usual terms.

19 ACTING PRESIDENT: He will be so excused.

20 (Whereupon, the witness was excused)

21 MR. CUNNINGHAM. Shall I start with the next
22 witness before afternoon?

23 ACTING PRESIDENT: Is the next a document or
24 a witness?

25 MR. CUNNINGHAM: Witness.

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ACTING PRESIDENT: We will adjourn until 1:30.

(Whereupon, at 1155, a recess was
taken.)

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: With the Tribunal's per-
mission, the accused SHIMADA will be absent from the
courtroom the whole of the afternoon session con-
ferring with his counsel.

MR. SHIMANOUCI: In order to clarify Ambassa-
dor OSHIMA's position concerning the negotiations be-
tween Japan, Germany and Italy, we now call to the
stand the witness USAMI, Uzuhiho.

THE MONITOR: Negotiations which were con-
ducted between 1938 and 1939.

MARSHAL OF THE COURT: Mr. President, the
witness USAMI is in court. He has previously testi-
fied before this Tribunal.

ACTING PRESIDENT: You are reminded that you
are still under your former oath.

- - -

1 U Z U H I K O U S A M I, recalled as a witness on
2 behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. SHIMANOUCHI:

7 Q Mr. Witness, please state your name and
8 address.

9 A My name is USAMI, Uzuhiko. My address is
10 No. 616 Koenji, 4-Chome, Sugimami-ku, Tokyo.

11 MR. SHIMANOUCHI: May the witness be shown
12 defense document 2630?

13 (Whereupon, a document was handed to
14 the witness.)

15 Q Is that your affidavit?

16 A Yes.

17 Q Are the contents thereof true and correct?

18 A Yes.

19 MR. SHIMANOUCHI: I now tender in evidence
20 defense document 2630.

21 ACTING PRESIDENT: It will be admitted in
22 evidence.

23 CLERK OF THE COURT: Defense document No.
24 2630 will receive exhibit No. 3494.

25 (Whereupon, the document above

1 referred to was marked defense exhibit
2 No. 3494 and received in evidence.)

3 MR. SHIMANOUCHI: I shall now read exhibit
4 3494, omitting the formal parts.

5 "I graduated from the Tokyo Imperial Univer-
6 sity, faculty of law, in 1918, and entered the Foreign
7 Office in 1920. After I had served as Secretary in
8 the Japanese Bureau for the League of Nations in
9 Geneva, Secretary in the Japanese Embassy in France,
10 Chief of Section in the Foreign Trade Department of
11 the Foreign Office, Consul General in Fuchow, Mukden,
12 Geneva, etc., I was appointed Councillor of the Japanese
13 Embassy in Berlin in October 1938.

14 "2. I remember that I arrived in Berlin on
15 11 November 1938. I stayed in Berlin as the Council-
16 lor of the Embassy until my departure from there in
17 May 1940 for my new post as the Minister in Egypt,
18 and assisted Ambassador OSHIMA continuously until the
19 end of August 1939 in the negotiations with the German
20 Government for strengthening the Anti-Comintern Pact.
21 As all records of that time have been lost, I cannot
22 tell accurately the contents of telegrams, etc.
23 exchanged with the Foreign Office in Tokyo, but I remem-
24 ber the broad outline of the matter.
25

"3. When I arrived in Berlin, Mr. OSHIMA had

1 already become Ambassador in the latter part of Oct-
2 ober; official negotiations for strengthening the
3 Anti-Comintern Pact had been commenced, and a tenta-
4 tive German plan had been cabled by Ambassador OSHIMA
5 to the Foreign Minister.

6 "According to what I heard from Ambassador
7 OSHIMA the progress up to that time was as follows:
8 While Mr. OSHIMA was still Military Attache, a re-
9 quest was received from Ribbentrop to ascertain the
10 view of the Japanese Army as to the idea of a
11 Japanese-German mutual assistance treaty. OSHIMA
12 sent home Major General KASAHARA to convey this re-
13 quest to the Central Army authorities. The Army
14 brought the matter before the Five-Ministers Conference
15 at the end of August, and on the basis of the decision
16 of this conference, cabled to OSHIMA that approval in
17 principle was given to the German idea. Shortly there-
18 after, Major General KASAHARA returned to Berlin and
19 reported to the same effect. Attache OSHIMA, upon
20 instruction of the Army, informed Ribbentrop of this.
21 After OSHIMA became ambassador, Ribbentrop presented
22 officially a German draft proposal and asked for the
23 official view of the Japanese Government. Thereupon
24 Ambassador OSHIMA sent a telegram to the Foreign Min-
25 ister and was waiting for instructions in return.

1 "The above-mentioned decision of the Five-
2 Ministers Conference at the end of August was also
3 cabled at that time from the Foreign Minister to the
4 Japanese Embassy in Germany, and I remember reading
5 that telegram.

6 "A telegram in reply to Ambassador OSHIMA's
7 telegram transmitting the German draft proposal was
8 received from Foreign Minister ARITA shortly after my
9 arrival in Berlin. It said in effect that this pro-
10 posal was a capital idea 'killing as it will three
11 birds with one stone,' that is to say it would be
12 conducive to the speedy settlement of the China Inci-
13 dent, it would strengthen Japan's defensive position
14 vis-a-vis Soviet Russia, and it would improve our
15 general diplomatic position.

16 "The cable further stated that concrete plans
17 were being studied by the government which would be
18 cabled to Berlin as soon as decided upon. We on the
19 spot got naturally the impression that the attitude
20 of the control authorities were very positive in re-
21 gard to this proposed treaty.

22 "However, shortly thereafter a further tele-
23 gram was received from the Foreign Minister stating
24 that there seemed to exist a misunderstanding with
25 respect to the objective of the treaty, namely, as

1 to the question whether countries other than Soviet
2 Russia should also be included in the object. However,
3 according to what I learned from Mr. OSHIMA the de-
4 cision of the Five Ministers Conference at the end
5 of August, which was conveyed to him by an army tele-
6 gram while he was still Military Attache, approved in
7 principle the German proposal of a general mutual
8 assistance treaty without limiting the object, with
9 the explanation that Soviet Russia was the primary
10 and other countries were the secondary objects (Major
11 General KASAHARA confirmed also the point upon his
12 return to Berlin at the end of September.) Therefore,
13 Mr. OSHIMA requested the Foreign Minister forthwith
14 by a telegram to clarify what the latter meant by
15 stating that there was a misunderstanding. No clear
16 answer was, however, received. I also remember in
17 this connection that the telegram of the Foreign
18 Minister transmitting the decision of the Five Ministers
19 Conference at the end of August, which I read as men-
20 tioned above, did not contain any passage limiting
21 the object, and that I also got the impression that the
22 government was going to conclude a treaty of a general
23 nature.
24

25 "In this way no progress in the negotiations
with the German side was made until the arrival of

Special Envoy ITO as mentioned below.

1 "4. In the meantime, in the middle of
2 December 1938 as I remember, Ambassador OSHIMA upon
3 request of Ribbentrop went to Rome and saw Mussolini.
4 Ribbentrop requested namely that, as Italy, although
5 in principle consenting to participation in the pro-
6 posed treaty as a result of negotiations with Germany,
7 nevertheless made reservation as to the time of its
8 conclusion, the Italian intention be ascertained also
9 by the Japanese side; and Ambassador OSHIMA, therefore,
10 went to Rome after, of course, cabling the purpose of
11 his trip to the Foreign Minister and securing the
12 latter's approval. Ambassador OSHIMA told me after his
13 return to Berlin that he met Mussolini only once, and
14 that Mussolini's answer was to the effect that he ap-
15 proved the purpose of the treaty but could not say
16 anything definite yet as to the time of its conclusion.

18 "5. At the beginning of January 1939 there
19 was a cabinet change in Japan and the HIRANUMA Cabinet
20 was formed. Shortly thereafter a telegram was received
21 from the Foreign Minister announcing that Minister ITO
22 and others would be dispatched to Berlin in order to
23 transmit instructions regarding the policy the govern-
24 ment had decided upon. Ambassador OSHIMA requested
25 that he be informed by telegram of the outline at least

1 of the government's decision, but the reply was that
2 in view of the necessity of secrecy and the difficulty
3 to explain the matter by cable, the arrival of the
4 ITO mission should be awaited. The mission consisted,
5 besides Minister ITO, of Colonel TATSUMI, Eiichi, of
6 the Army, and Rear Admiral ABE, Katsuo, of the Navy,
7 and arrived in Berlin at the end of February 1939.
8 As the instruction brought by them was addressed to
9 both ambassadors in Germany and Italy, Ambassador
10 SHIKATORI also came to Berlin and heard together with
11 Ambassador OSHIMA the explanations by the envoy. I
12 also attended the conference.

13 "The content of the instruction brought by
14 the mission was, as far as I remember, as follows:

15 "As to the treaty itself, it was a draft of a
16 mutual assistance treaty of general nature without
17 limiting the objective; in the preamble the purpose of
18 the treaty was stated to be the defense against commun-
19 istic menace in Asia and Europe. However, by a secret
20 mutual understanding on a separate paper Japan wanted
21 to reserve, although I do not remember the text liter-
22 ally, that she would as a matter of fact render no
23 military assistance in case countries other than Soviet
24 Russia became involved, and that in case inquiries were
25 made by third powers as to the nature of the treaty

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1 explanations should be given that it was an extension
2 of the anti-Comintern Pact, thus limiting in fact the
3 object of the treaty to Soviet Russia. Moreover, in
4 the detailed explanation attached to this draft there
5 was a passage to the effect that the government felt
6 compelled to come down to this extent from its orig-
7 inal standpoint, as Germany and Italy had been led to
8 misunderstand Japan's intention.

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1 "As mentioned above, Ambassador OSHIMA had
2 already informed the German side that Japan approved
3 the draft treaty of mutual assistance with Soviet
4 Russia as primary, and other powers as secondary objects;
5 he thought it therefore necessary to clear up the ques-
6 tion of his responsibility in view of the intimation
7 of Tokyo that Germany and Italy had been misled, and
8 cabled a request for explanation to the Foreign
9 Minister at the outset of March. As to the content of
10 the instruction itself, Ambassador OSHIMA and SHIRATORI
11 after deliberate consultations, dispatched a telegram
12 to Tokyo requesting the government to reconsider the
13 matter. The gist of the telegram, as far as I remember,
14 was as follows:

15 "The Japanese proposal for a secret understand-
16 ing to limit the objective of the treaty practically
17 to Soviet Russia, while stipulating in the text itself
18 in a clearly general sense, would cast a slur on the
19 good faith of Japan, as it would also contradict what had
20 already been communicated to the German side, and would
21 moreover never be entertained by Germany and Italy;
22 therefore, Japan should conclude the treaty first with-
23 out the proposed secret understanding, referring the
24 definition of the duty of military assistance to be borne
25 actually by Japan to later discussions by the contracting

parties then envisaged in the proposed treaty.'

1 "The Foreign Minister replied at the end of
2 March to the above mentioned telegram of Ambassador
3 OSHIMA that no one in particular was responsible for
4 the misunderstanding by Germany and Italy. Ambassador
5 OSHIMA accepted this as settling the question for the
6 time being; he never in connection with this matter
7 tendered resignation to the government at any period.

8 "To the opinion expressed by the two Ambassadors
9 there was a reply at the end of March. Its gist was to
10 change the content of the secret understanding insofar
11 as that although Japan acknowledged the duty for
12 military assistance in regard to countries other than
13 Soviet Russia, she would not be able to carry it out
14 effectively for the time being, and that Japan would ex-
15 plain in case of inquiries by third powers that the
16 actual menace to Japan was the destructive activities
17 of the Comintern and, as far as Japan was concerned, she
18 had nothing other than these in view in concluding the
19 treaty.
20

21 "6. Ambassador OSHIMA transmitted the content
22 of the new instruction to the German side at the begin-
23 ning of April and reopened the negotiations. Germany con-
24 sented to the Japanese proposal insofar as the text of
25 the draft treaty itself was concerned, but showed

parties then envisaged in the proposed treaty.'

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2 March to the above mentioned telegram of Ambassador
3 OSHIMA that no one in particular was responsible for
4 the misunderstanding by Germany and Italy. Ambassador
5 OSHIMA accepted this as settling the question for the
6 time being; he never in connection with this matter
7 tendered resignation to the government at any period.

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12 military assistance in regard to countries other than
13 Soviet Russia, she would not be able to carry it out
14 effectively for the time being, and that Japan would ex-
15 plain in case of inquiries by third powers that the
16 actual menace to Japan was the destructive activities
17 of the Comintern and, as far as Japan was concerned, she
18 had nothing other than these in view in concluding the
19 treaty.
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21 "6. Ambassador OSHIMA transmitted the content
22 of the new instruction to the German side at the begin-
23 ning of April and reopened the negotiations. Germany con-
24 sented to the Japanese proposal insofar as the text of
25 the draft treaty itself was concerned, but showed

1 reluctance to accept the secret understanding and
2 requested its withdrawal or at least the reducing of it
3 to a more oral understanding, stating that these matters
4 should be referred to detailed agreements to be
5 arranged after the conclusion of the treaty. She further
6 insisted that, in case countries other than Soviet
7 Russia became the objects, Japan should at least be ready
8 to accept the duty of participation in the war, although
9 Germany (and Italy) did not expect much from the military
10 assistance by Japan.

11 "The instructions of the Japanese Government
12 showed, as far as I remember, while insisting on
13 committing the secret understanding to black and white,
14 certain readiness to concede in substance to the German
15 view; especially, they never denied the duty of war
16 participation. Nevertheless, they wanted to interpret
17 the term of war participation in a much broader sense
18 than usual, and tried to include in it cases which
19 normally cannot be considered as war participation.
20 Therefore, it was very difficult for us on the spot to
21 understand them, and Ambassador OSHIMA experienced much
22 difficulties in explaining them to the German side.
23 In order to overcome these difficulties, I and Secretary
24 TAKIUCHI in consultation with Gaus, Chief of the Treaty
25 Department of the German Foreign Office, made in May a

1 tentative draft as to the content of the secret under-
2 standing adopting in general the idea of the Japanese
3 Government. Upon this basis there were several negoti-
4 ations between Japan and Germany, without arriving at
5 an agreement.

6 "Especially, as the German Government was
7 opposed to the idea of making the secret understanding
8 in writing, the negotiations were completely dead-
9 locked since the end of June, and while no instruc-
10 tions were received from Japan, the German-Russian Non-
11 Aggression Pact was signed on 23 August, whereupon
12 the Japanese Government broke off the negotiations.

13 "During these negotiations it happened some-
14 times that Ambassador OSHIMA, in order to fulfill his
15 duty as the envoy on the spot, presented his opinion
16 to the Foreign Minister, in accordance with the Civil
17 Service Discipline Ordinance, and, as a result thereof,
18 original instructions of Tokyo were changed. However,
19 I do not remember that Ambassador OSHIMA ever refused
20 to carry out the instructions, or exceeded the limit
21 thereof. Also, there never has been the case that
22 Ambassador OSHIMA tendered resignation, or threatened
23 the Tokyo Government by indicating his desire to resign.

24 "As far as I remember, most of the instructions
25

of the Foreign Minister during the negotiations was
1 based on the decisions of the Five Ministers Conference."

2 MR. TAVENNER: If it please the Tribunal, I
3 regret the necessity of interrupting now and apologize
4 for not having raised this before at an earlier time.
5 The last three lines at the bottom of page 10 constitute
6 a statement of opinion and an effort to forswear one of
7 the issues in the case and they are just about to begin
8 the reading of that paragraph.
9

10 ACTING PRESIDENT: In so far as it may constitute
11 an opinion, we will disregard it.

12 MR. SHIMANOUCI: May I explain?

13 ACTING PRESIDENT: No necessity for it.

14 MR. SHIMANOUCI: Thankyou, sir.

15 ACTING PRESIDENT: Proceed with your reading.

16 MR. SHIMANOUCI: Starting with the second sentence
17 of the second paragraph, page 10:

18 "Their meaning was very ambiguous, making it
19 difficult for us on the spot to understand, and impossible
20 to transmit, them to the German side. Therefore,
21 Ambassador OSHIMA, pressed as he was by the necessity
22 of conducting negotiations with Germany, sometimes
23 requested fairly strongly the Foreign Minister to clar-
24 ify the Government's attitude; he also endeavoured to
25 transmit to Tokyo the true idea of the German Government.

USAMI

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1 These things might have caused OSHIMA to be rumoured as
2 recalcitrant to his Government, but the truth is as
3 above described, and I as an official of the Foreign
4 Office could not find, as a matter of fact, any im-
5 propriety in the conduct of Ambassador OSHIMA.

6 "Furthermore, Ambassador OSHIMA never commun-
7 icated at that time directly with the War Ministry or
8 the Army General Staff in Tokyo.

9 "7. The conclusion of the German-Russian Non-
10 Aggression Pact was a complete surprise for Japan; there
11 was no previous notification before the matter had been
12 decided upon, and we were at the same time very much
13 surprised and angered. Ambassador OSHIMA, as far as I
14 remember, protested orally when Ribbentrop gave him the
15 first information from South Germany on or about 20 August
16 by telephone, and repeated it when he saw Ribbentrop in
17 Berlin on 22 August on the latter's way to Moscow.

18 "At the end of August, an instruction was
19 received from the Foreign Minister ordering a protest
20 to the German Government. As Ribbentrop was not in
21 Berlin at that time, Ambassador OSHIMA brought a note
22 of protest to Weizsaecker, the State Secretary (Vice
23 Foreign Minister). However, upon an urgent request of
24 the latter to postpone the handing of the note in view
25 of the very grave diplomatic position of Germany,

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1 OSHIMA postponed the execution of the instruction until
2 the middle of September when the prospect of the German-
3 Polish war became somewhat clear, and handed the note
4 of protest to Weizsaecker.

5 "On this 10 day of September, 1947.

6 "At Tokyo.

7 "USAMI, Uzuhiko (seal)."

8 With the permission of the Court, I should like
9 to ask this witness two or three questions in additional
10 direct examination.

11 ACTING PRESIDENT: Proceed.

12 BY MR. SHIMANOUCHI (Continued):

13 Q In August 1939 when the Soviet-German Pact of
14 Non-Aggression was signed, did Ambassador OSHIMA tender
15 his resignation to the Japanese Government or did he not
16 do so?

17 A At that time Ambassador OSHIMA requested the
18 Foreign Office for a recall with a view to being released
19 from his duty -- relieved of his duties.

20 Q On what day of August was that?

21 A In my recollection it was around the 22nd or
22 23rd of August.

23 Q Did OSHIMA tell you the reasons why he was
24 tendering his resignation?

25 A Yes, there was some talk from him on that point.

1 Q What were the reasons?

2 A In my recollection Ambassador OSHIMA spoke to
3 the following effect:

4 One of his reasons was his sense of responsi-
5 bility over not being able to anticipate this non-
6 aggression pact between Germany and the Soviet Union
7 in the light of the fact that he was the Japanese
8 ambassador stationed in Berlin. The second reason was
9 that it became clear that it would be impossible for him
10 as ambassador in Berlin to further negotiate the Tri-
11 partite Alliance -- tri-partite agreement, for the
12 conclusion of which he had made efforts, because of the
13 development of the new situation and in consequence felt
14 that it was improper for him -- inappropriate for him to
15 further continue his efforts in the light of the new
16 development and to retain his ambassadorship.

17 Another reason was that Ambassador OSHIMA
18 regarded the German step as being unfaithful and in-
19 sincere toward Germany -- correction: to Japan, for,
20 while advancing talks with Japan in connection with the
21 conclusion of a German-Japan and Italian Pact, the
22 Germans had, without notifying Japan whatsoever of the
23 matter, it concluded such an agreement with the U.S.S.R.
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1 Q When Ambassador OSHIMA had talks with
2 influential people on the German side, did he notify
3 you of these talks, inform you of these talks in view
4 of your position as Councilor of Embassy?

5 A It was customary for the Ambassador to
6 inform me of the contents of talks he had had with
7 German leaders.

8 Q My last question. Have you ever heard that
9 OSHIMA met Himmler sometime in January, 1939?

10 A I have never heard that Ambassador OSHIMA
11 met Himmler sometime in January, 1939; but not only
12 that, I have never heard, during my tenure of office
13 as Councilor of Embassy I have never heard of OSHIMA
14 meeting Himmler.

15 MR. SHIMIZUCHI: This concludes my direct
16 examination.

17 The counsel for the defendant SHIRATORI
18 desires to ask a few additional questions.

19 ACTING PRESIDENT: Mr. Caudle.

20 MR. CAUDLE: If it please the Tribunal.

21 ACTING PRESIDENT: Is this direct or cross-
22 examination?

23 MR. CAUDLE: Direct examination.

24 May the witness be shown exhibit 2619?

25 (Whereupon, a document was handed to

the witness.)

1 DIRECT EXAMINATION (Continued)

2 BY MR. CAUDLE:

3 Q Mr. USAMI, that document, namely, exhibit 2619,
4 is a draft of a tripartite pact under date of May 15,
5 1939, which consists of the pact proper, the signing
6 protocol, the secret accessory protocol, and the
7 papers Nos. 2, 3, and 4. It is stated that the
8 Japanese Government did not yet concur to the last-
9 mentioned three papers. Do you know the draft?
10

11 A Yes, I do.

12 Q What were the differences between that draft
13 and the draft brought by the ITO Commission -- or
14 Mission?

15 A In connection with these documents, the pact
16 proper, the signing protocol, and the secret accessory
17 protocol, which is paper No. 1, constitute the main
18 part of the treaty and are the same as the draft
19 brought by Minister ITO to Berlin. The papers Nos.
20 3 and 4 are different from the drafts brought by
21 Special Envoy ITO. The draft brought by Special Envoy
22 ITO was the draft of items for a secret understanding
23 which Japan had proposed with reservations, and what
24 corresponds to that in these papers which you have just
25 mentioned are papers 3 and 4, which was drafted in the

1 following manner:

2 The German Government did not approve the
3 Japanese proposed plan, and therefore I and the
4 representative of the German Foreign Office, Gaus, had
5 discussions on the matter, and as a result Gaus pre-
6 pared a plan, and this plan proposed by the German
7 side and offered by Gaus constitutes papers 3 and 4.
8 Paper No. 2 relates to the German-Italian Alliance,
9 and this was not included in the Japanese draft
10 brought by Special Envoy ITO. This was proposed by
11 Germany as an addition, having in mind the conclusion
12 of a German-Italian Alliance.

13 Q Did the German Government agree to papers
14 Nos. 3 and 4, that is, the Gaus draft?

15 A Substantially yes, but the German Government
16 was opposed to recognizing the draft officially, that
17 is, the Gaus plan; that is to say, the German Govern-
18 ment was opposed to stipulating such reservations in
19 writing, and proposed that an oral understanding would
20 be quite sufficient for the purpose.

21 Q The draft, exhibit 2619, stipulated for help
22 and assistance to be given by the contracting powers,
23 but it was not clear whether the contracting powers
24 had the obligation to participate in war. Was this
25 problem of participation in war also to be submitted

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1 to the conference of representatives of the three
2 countries?
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1 MR. TAVENNER: If the Tribunal please, I
2 object to the question in that it is an effort to obtain
3 from this witness the meaning of this particular draft,
4 whereas the draft speaks for itself.

5 MR. CAUDLE: If it please the Tribunal, he
6 knows the draft, he knows what the intention of the
7 Japanese Government was at that time, and he certainly
8 should be permitted to clarify the issue.

9 ACTING PRESIDENT: Objection sustained.

10 Q Did the Japanese Government agree to papers
11 No. 3 and 4, that is, the Gaus draft?

12 A No, the Japanese Government did not go as far
13 as giving its consent to the so-called Gaus draft.

14 Q Was that the only point about which no agree-
15 ment could be attained until the last between the
16 Japanese and the German and Italian Governments?

17 A Yes.

18 Q The prosecution insisted that SHIRATORI advo-
19 cated an all-out military alliance without reservations.
20 Had SHIRATORI or any other person ever advocated a
21 stronger alliance than the draft, exhibit 2619?

22 A Ambassador SHIRATORI has never advocated an
23 alliance of a contents stronger than this draft. Not
24 only that, there was no one else who advocated an
25 alliance which was stronger than that set forth in the

USAMI

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draft during the negotiations.

1 Q Would the Tripartite Pact negotiated in 1939
2 be directed also against the United States?

3 A The question of the United States was not dis-
4 cussed or argued at the time. In accordance with the
5 purport of the preamble of the draft, the United States
6 was considered to be outside of the consideration.

7 Q The so-called "mutual help and assistance" as
8 stipulated in the pact, was that to be automatic, or
9 to be discussed?

10 MR. TAVENNER: I desire to make the same
11 objection, if the Tribunal please: the language of
12 the pact speaks for itself.

13 ACTING PRESIDENT: Objection sustained.

14 MR. CAUDLE: Yes, sir; thank you.

15 CROSS-EXAMINATION

16 BY MR. TAVENNER:

17 Q Mr. USAMI, you tell us in your affidavit that
18 OSHIMA received a cable advising that the Five Ministers'
19 Conference in the latter part of August, 1938, had
20 approved, in principle, the German proposals. Did you
21 see that cable?

22 A At that time, that is to say, about the end
23 of August, OSHIMA was the Military Attache. He was
24 not yet the Ambassador. If your question is directed --
25

1 is to the effect whether or not I saw the telegram
2 received, by OSHIMA as Military Attache, I must reply
3 that I did not see the telegram.

4 Q Then you know nothing about its contents if
5 you did not see it?

6 A As far as the contents are concerned, I heard
7 of it from Ambassador OSHIMA generally.

8 Q Then tell us when it was received.

9 A I cannot reply to that question because when
10 the telegram reached OSHIMA I was not then yet Councilor
11 of the Japanese Embassy and I was not in Berlin.

12 Q From whom was it sent?

13 A As I have said, I was not then in Berlin so
14 I do not know and, therefore, I cannot give you any
15 accurate information on that.

16 Q In other words, everything that is in your
17 affidavit regarding the notification of OSHIMA about
18 the action or decision of the Five Ministers' Conference
19 is what you learned from OSHIMA and nothing of what
20 you know yourself?

21 A I am familiar with matters after November,
22 1938, that is to say, after I arrived at my post in
23 Berlin, because I personally handled such matters.

24 Q Now, you state that you did see a telegram
25 from the Foreign Ministry. That is a different

1 telegram from the one originally notifying OSHIMA of
2 the action of the Five Ministers' Conference, is it
3 not?

4 A The telegram which I said I saw was the
5 telegram which was addressed by the Foreign Office to
6 the then Ambassador in Berlin following the results
7 of the Five Ministers' Conference at the end of
8 August, 1938. This telegram I saw after my arrival
9 at my post in Berlin.

10 Q What was the date of that telegram?

11 A At this date I do not recall the date of the
12 telegram. I think it was either the end of August
13 or the first part of September.

14 Q And to whom was that telegram addressed?

15 A I think it was Ambassador TOGO.

16 Q Then what was TOGO directed to do?

17 A As far as I remember, I do not think there
18 was anything in the telegram directing especially TOGO
19 to do this or to take such certain steps or to take
20 such measures.

21 Q Well, what was the subject of the telegram?
22 Tell us about it.

23 A The contents were relative to the Japanese-
24 German Agreement which was informally proposed by
25 Ribbentrop to OSHIMA.

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Q What did it say?

1 A I do not at the present time have any
2 exact recollection of the contents of the telegram,
3 but with regard to the idea proposed by Ribbentrop,
4 it was said that -- it was regarded as generally
5 satisfactory if some revisions were made in connection
6 with that proposal. And the telegram further said
7 that in connection with this matter, arrangements
8 should be made for official negotiations through
9 diplomatic channels and that the Army was notifying
10 OSHIMA to that effect and that this information was
11 given to the Ambassador for his reference.

12 THE INTERPRETER: Insert "Military Attache"
13 before "OSHIMA."

14 Q Were there reservations specified in the
15 telegram?
16

17 A My recollection is that in the telegram
18 that I saw, there were no specifications clearly made.

19 Q Did you discuss that particular telegram
20 with OSHIMA?

21 A As I have told you before, this telegram
22 arrived in Berlin some time before my arrival in
23 Berlin and so I have had no specific, special dis-
24 cussion with OSHIMA in connection with this particular
25 telegram.

1 Q Now, you told us in your affidavit a
2 great many things that OSHIMA told you. Did he
3 tell you he discussed this matter with TOGO, the
4 Ambassador?

5 A With regard to that, I have no positive
6 recollection.

7 Q Did you talk to TOGO about it?

8 A No, I have had no occasion to talk with
9 him.

10 Q Well, now, you were a very important man
11 in the handling of these transactions and you con-
12 ducted them all with the Military Attache instead of
13 the Ambassador. Why was that?

14 A Well, I arrived at my post in Berlin after
15 Ambassador TOGO had left his post as Ambassador in
16 Berlin, and I have had no -- I did not serve under
17 him, but under OSHIMA as Consular of Embassy.
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1 Q You arrived in Berlin November 11, 1938.
2 How long after that was it that the telegram was
3 received from Foreign Minister ARITA acknowledging
4 receipt of the German proposal which had been sent
5 him by OSHIMA?
6

7 A In response to the German proposal trans-
8 mitted -- the official German proposal transmitted
9 by Ambassador OSHIMA to the Japanese Foreign
10 Minister, Foreign Minister ARITA did not send a
11 telegram saying that the Japanese Government
12 accepted the proposal. It was shortly after my
13 arrival in Berlin -- I do not remember the exact
14 date -- but a telegram arrived from Foreign Minister
15 ARITA to the effect that the German proposal was
16 splendid, that the Japanese Government would sub-
17 mit it to careful study, and that in the near
18 future the Japanese Government would submit its
19 views more concretely.

20 Q And, then, a second telegram was received.
21 How long was that after the receipt of the first
22 one?

23 A Well, with regard to this, too, I do not
24 have any positive recollection as to date, but I
25 think it was not long after, around the end of
November or early in December.

1 Q Then, from the end of November or the early
2 part of December, there was no question in your mind,
3 was there, with regard to the fact that the Japa-
4 nese Government did not intend to be automatically
5 bound in participating in war against a country
6 other than Soviet Russia, is that true?

7 A Nothing definite was known, because at that
8 time we thought that, as for the Japanese Govern-
9 ment, only a general treaty was being considered,
10 and no instructions from the Japanese Government
11 had been received yet.

12 Q But, early in December, OSHIMA went to
13 Italy to attempt to sell Mussolini the German
14 view of the pact, isn't that true?

15 A Well, I cannot testify about your remark
16 that he went to Italy to sell the German view, but
17 at that time, that is around the middle of December,
18 OSHIMA did go to Italy to talk to Mussolini about
19 this matter.

20 Q And, he went at the insistence of Ribben-
21 trop, didn't he?

22 A As I have stated in my affidavit, Amba-
23 sador OSHIMA went to Italy in response to a hope
24 entertained by Ribbentrop.
25

ACTING PRESIDENT: We will recess for

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1 fifteen minutes.

2 (Whereupon, at 1445, a recess was
3 taken until 1500, after which the proceed-
4 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: I have no further questions,
5 if your Honor please.

6 MR. SHIMANOUCHI: May the witness be released
7 on the usual terms?

8 ACTING PRESIDENT: He may be so released.

9 (Thereupon, the witness was excused.)

10 MR. SHIMANOUCHI: We next call the witness
11 KATABE, Torashiro for the following purpose: 1,
12 whether or not OSHIMA had any connection with the
13 Manchurian Incident; 2, the attitude of OSHIMA as
14 well as his intentions and aims with regard to the ne-
15 gotiations of 1938 to 1939 on the Japan-German-Italian
16 treaty; and 3, the extent and nature of OSHIMA's
17 connections with intelligence vis-a-vis the Soviet
18 Union, especially the various matters mentioned in
19 the memorandum on the conversations between OSHIMA
20 and Himmler in which are mentioned such matters as
21 a plan to assassinate Stalin.

22 ACTING PRESIDENT: We don't want such an ex-
23 tended comment.
24
25

1 T O R A S H I R O K A W A B E, recalled as a
2 witness on behalf of the defense, having been
3 previously sworn, testified through Japanese
4 interpreters as follows:

5 ACTING PRESIDENT: You are reminded you
6 are still under your former oath.

7 DIRECT EXAMINATION

8 BY MR. SHIMANOUCI:

9 Q Mr. Witness, please state your name and
10 address.

11 A My name is KAWABE, Torashiro; my address,
12 Jindai-mura, Kitatama-gun, Tokyo.

13 MR. SHIMANOUCI: May the witness be shown
14 defense document 2651?

15 (Whereupon, a document was handed
16 to the witness.)

17 Q Is that your affidavit?

18 A Yes.

19 Q Are the contents thereof true and correct?

20 A Yes.

21 MR. SHIMANOUCI: I now tender in evidence
22 defense document 2651.

23 ACTING PRESIDENT: It may be admitted in
24 evidence.

25 CLERK OF THE COURT: Defense document No.

2651 will receive exhibit No. 3495.

1 (Whereupon, the document above
2 referred to was marked defense exhibit 3495
3 and received in evidence.)
4

5 MR. SHIMANOUCHI: Omitting the formal parts
6 and paragraph numbered 1, I now read exhibit 3495.

7 "2. I was the Deputy Chief of the General
8 Staff at the time of the termination of the war in
9 the summer of 1945. From April 1929 until January
10 1932 I was the senior officer in the operational sec-
11 tion of the First Division of the general staff with
12 the rank of Lieutenant Colonel. Mr. OSHIMA, Hiroshi
13 was since August 1931 the Chief of the Fortress
14 Section of the First Division of the general staff
15 with the rank of Colonel. The Fortress Section was
16 in charge of internal defense only, and therefore was
17 not connected with offensive operations. Mr. OSHIMA,
18 who was the Chief of the Fortress Section, was also
19 concurrently a Staff Officer of the Naval General
20 Staff. This was because of the custom of that time
21 that the Chief of the Fortress Section should con-
22 currently be the Staff Officer of the Navy, as the
23 defense of the fortress was also connected with the
24 navy.
25

"3. On 18 September 1931 the Mukden Incident

1 broke out. As OSHIMA was on a post of defensive
2 nature as mentioned above, he had nothing to do with
3 the Manchurian Incident with respect to its outbreak,
4 carrying out, continuance, etc. I do not know either
5 that OSHIMA played any part in the Manchurian Inci-
6 dent from his individual standpoint apart from
7 official duty.

8 "DEPONENT: Kawabe, Torashiro."

9 At this time, if the Court please, I wish
10 to refer the Tribunal to court record pages 28029
11 to 28030 and page 28032 with regard to the fact that
12 over 320,000 persons received decorations in connec-
13 tion with the Manchurian Incident, and over 2,550,000
14 persons in connection with the China Incident. I
15 say this in connection with OSHIMA, who was one of
16 those receiving such decorations.

17 May the witness be shown defense document
18 2652?

19 (Whereupon, a document was handed to
20 the witness.)

21 Q Is that your affidavit?

22 A Yes.

23 Q Are the contents thereof true and correct?

24 A Yes.

25 MR. SHIMANOUCI: I now tender in evidence

1 broke out. As OSHIMA was on a post of defensive
2 nature as mentioned above, he had nothing to do with
3 the Manchurian Incident with respect to its outbreak,
4 carrying out, continuance, etc. I do not know either
5 that OSHIMA played any part in the Manchurian Inci-
6 dent from his individual standpoint apart from
7 official duty.

8 "DEPONENT: Kawabe, Torashiro."

9 At this time, if the Court please, I wish
10 to refer the Tribunal to court record pages 28029
11 to 28030 and page 28032 with regard to the fact that
12 over 320,000 persons received decorations in connec-
13 tion with the Manchurian Incident, and over 2,550,000
14 persons in connection with the China Incident. I
15 say this in connection with OSHIMA, who was one of
16 those receiving such decorations.

17 May the witness be shown defense document
18 2652?

19 (Whereupon, a document was handed to
20 the witness.)

21 Q Is that your affidavit?

22 A Yes.

23 Q Are the contents thereof true and correct?

24 A Yes.

25 MR. SHIMANOUCI: I now tender in evidence

1 defense document 2652.

2 ACTING PRESIDENT: It may be admitted.

3 CLERK OF THE COURT: Defense document No.
4 2652 will receive exhibit No. 3496.

5 (Whereupon, the document above
6 referred to was marked defense exhibit 3496
7 and received in evidence.)

8 ACTING PRESIDENT: You have on your order
9 of proof defense document 2652 and 2652 (revised).
10 We have the copy of the revised one.

11 MR. SHIMANOUCI: I desire to tender the
12 revised edition only.

13 ACTING PRESIDENT: The witness is being shown
14 document 2652, as I understand it.

15 MR. SHIMANOUCI: If the witness has been
16 shown the unrevised version, I now ask that he be
17 shown the revised version.

18 (Whereupon, a document was handed
19 to the witness.)

20 Q Is that your affidavit?

21 A Yes.

22 MR. SHIMANOUCI: With the permission of the
23 Tribunal I wish to withdraw the tender of defense
24 document 2652 unrevised and tender 2652 revised.

25 ACTING PRESIDENT: It may be admitted.

1 CLERK OF THE COURT: Defense document No. 2652
2 revised will receive exhibit No. 3496.

3 (Whereupon, the document above
4 referred to was marked defense exhibit 3496
5 and received in evidence.)

6 MR. SHIMANOUCI: Omitting the formal parts,
7 I now read exhibit 3496, beginning with numbered
8 paragraph 1:

9 "1. I was in Berlin from December 1938
10 until February 1940 as Military Attache to the
11 Japanese Embassy, with the rank of Major-General.
12 Mr. OSHIMA was Ambassador from October 1938 until
13 October 1939.

14 "2 - 1. In October 1938 I was appointed
15 Military Attache to the Japanese Embassy in Germany
16 succeeding Lt. General OSHIMA. Prior to my depart-
17 ure from Japan I was briefed by various persons at the
18 General Staff Office in Tokyo on various subjects
19 concerning my new duties. At that time, I heard ex-
20 planations as to intelligence and counter-intelligence
21 activities in Berlin against Soviet Russia from Lt.
22 Col. USUI, who had been in Berlin, from May 1937 until
23 January 1938, exclusively in charge of these matters
24 under Military Attache OSHIMA, and had returned to the
25 General Staff in Tokyo thereafter. He told me that

1 from his own experience no appreciable results could
2 be expected from these activities.

3 "2 - 2. After my arrival in Berlin in December
4 1938 I heard explanations from Col. MANAKI, who succeeded
5 Lt. Col. USUI and was exclusively in charge of this
6 work from the summer of 1938 under Military Attache
7 OSHIMA. Through what I heard from USUI and MANAKI
8 I learned the following facts:

9 "(a) It was very difficult for us Japanese
10 to find able Russians in Europe for this purpose;

11 "(b) The Germans were not necessarily in
12 sympathy with the White Russians or their organiza-
13 tions with which the Japanese side had been maintain-
14 ing contact up to that time;

15 "(c) It was particularly difficult for us
16 Japanese to prepare any Anti-Soviet activities from
17 Europe as a base, and prospects of useful results in
18 the future were also slim;

19 "(d) The expense for the Japanese intelli-
20 gence organs in Berlin amounted to no more than
21 300,000 yen annually, including personal expenses.
22 I might add here that as regards counter-intelligence
23 activities, only study and planning in consideration
24 of wartime were laid down by the Chief of the General
25 Staff; however, it was strictly forbidden to put them

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1 actually into effect in peacetime.

2 "2 - 3. I, like my predecessor OSHIMA, left
3 Col. MANAKI entirely in charge of these matters. I
4 received reports from him, but never transmitted them
5 to Ambassador OSHIMA. This was because the Ambassador
6 had no relation whatsoever with this matter within
7 scope of his official duty. Furthermore Ambassador
8 OSHIMA, in fact, did not touch upon these matters and
9 never asked me questions about them.

10 "2 - 4. I met several times with the White
11 Russians concerned. I found out that they were either
12 nothing but anti-Soviet ideologists, like Bamand,
13 who was at that time staying in Switzerland for recu-
14 peration, or professionals who used to demand money
15 from us by presenting impractical and fantastic anti-
16 Soviet plans.

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1 "2 - 5. I knew that Lt. Col. USUI had bought
2 a house at Falkensee in the suburbs of Berlin, and had
3 turned it over to Col. HANAKI. I knew also that a few
4 White Russians were quartered there; they were engaged
5 in a small-scale printing of anti-Soviet pamphlets, but
6 I do not know what became of those pamphlets.

7 "2 - 6. I have absolutely never heard from
8 anyone that OSHIMA or any other Japanese army officers
9 sent anti-Soviet pamphlets into Soviet territories by
10 balloons from Poland, or that they bought a motorboat
11 to bring such papers into the Crimea across the Black
12 Sea, or that they sent Russians into Soviet Russia for
13 the purpose of assassinating Stalin. Any such matters
14 were completely unknown to me.

15 "3 - 1. When I arrived in Berlin as Military
16 Attache in December 1938, ambassador OSHIMA was engaged
17 in negotiations with the German Government regarding a
18 Japanese-German-Italian treaty. From this time until
19 the negotiations were terminated, around August 1939, I,
20 together with the Naval Attache, participated in fre-
21 quent conferences within the Japanese Embassy and dis-
22 cussed this matter, Ambassador OSHIMA acting as leader.
23 During these negotiations, Ambassador OSHIMA always gave
24 the matter most careful consideration and often called
25 the Embassy staff, the Military and Naval attaches,

together for consultation and study.

1 "3 - 2. As to the reasons why the Japanese
2 Government and the central army authorities wished for
3 the conclusion of this treaty, Ambassador OSHIMA often
4 told us as follows:

5 "At that time the China Incident was un-
6 expectedly expanding without any prospect of an early
7 termination, and all eager Japanese efforts for settle-
8 ment had been of no avail. Moreover, both the Japanese
9 Government and the army circles felt themselves
10 threatened by the powerful armament of Soviet Russia.
11 They wanted, therefore, by concluding this treaty with
12 Germany and Italy, to improve the diplomatic position
13 of Japan with the ultimate purpose of bringing the
14 China Incident to the earliest possible end, and, at
15 the same time, to be prepared for any attack from
16 Soviet Russia; I never heard from OSHIMA that Japan
17 intended or desired to utilize this treaty after its
18 conclusion as a means to initiate or wage aggressive
19 war against other countries. Neither have I ever heard
20 from anyone that OSHIMA planned or desired anything of
21 this nature.
22

23 "3 - 3. In February 1939, Mr. ITO, Nobufumi,
24 accompanied by an officer from both the Army and the
25 Navy, arrived in Berlin, bringing the instructions of the

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1 Japanese Government regarding this treaty. I, together
2 with the higher Embassy staff and the Naval Attache, was
3 present when Envoy ITO gave the explanations to the
4 Ambassador. The purport of this instruction was to
5 limit to Soviet Russia the object of Japanese military
6 assistance to be given to Germany and Italy on the
7 basis of the treaty. This was at variance to what
8 OSHIMA had already communicated to Germany upon instruc-
9 tions of the government, namely, that although Japan
10 considered Soviet Russia as the primary object of this
11 proposed treaty, Britain and France would also be in-
12 cluded as secondary objects. Facing this situation,
13 OSHIMA cabled his opinion to Tokyo that, in view of the
14 progress up to that time, Germany might become dis-
15 trustful of Japan if he transmitted to Germany the
16 changed Japanese view as instructed, and, moreover,
17 would never accept the proposal.

18 "3 - 4. According to exhibit No. 2230,
19 Ambassador OSHIMA told the German Foreign Minister on
20 27 May 1939 that 'the War Minister requested OSHIMA by
21 wire to hold off until later against ARITA in order not
22 to disturb the discussions among the various quarters
23 in Tokyo. The Army is firmly resolved to fight the
24 matter out quickly and even at risk of a cabinet over-
25 throw.' Concerning this I have the following

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1 recollection:

2 "According to my memory, it was about the middle
3 of May 1939, I dispatched a telegram from Berlin to
4 Tokyo stating that Japan must clarify her position as to
5 whether she was going to conclude the treaty with Ger-
6 many and Italy or not, and that to continue in the
7 ambiguous attitude of that time would only invite the
8 contempt of foreign countries. Thereupon I received
9 from War Minister ITAGAKI a telegram to the effect that:
10 'The matter of the Japan-Germany-Italy treaty is now
11 under earnest discussion within the cabinet, and, as the
12 atmosphere is turning favorable to its conclusion, we
13 had better remain silent for the time being. I have
14 no thought whatsoever of overthrowing the cabinet.'
15 I told Ambassador OSHIMA of this telegram."

16 You may cross-examine.

17 ACTING PRESIDENT: Mr. Tavenner.

18 CROSS-EXAMINATION

19 BY MR. TAVENNER:

20 Q General KAWABE, how many times have you ap-
21 peared here as a defense witness?

22 A This is the sixth time.

23 Q You devote pages two and three of your affi-
24 davit, exhibit 3496, to subversive activities directed
25 against the USSR. How well acquainted were you with

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1 recollection:

2 "According to my memory, it was about the middle
3 of May 1939, I dispatched a telegram from Berlin to
4 Tokyo stating that Japan must clarify her position as to
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18 CROSS-EXAMINATION

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21 peared here as a defense witness?

22 A This is the sixth time.

23 Q You devote pages two and three of your affi-
24 davit, exhibit 3496, to subversive activities directed
25 against the USSR. How well acquainted were you with

1 Heinrich Himmler?

2 A I had heard of Himmler's name, but I have never
3 had the occasion to see or meet him.

4 Q Were OSHIMA and Heinrich Himmler friendly?

5 A I have never heard of that.

6 Q Do you know of any occasions when they met?

7 A No, not even once.

8 Q Now, in view of your denial of both of those
9 questions, I will ask you this: Do you recall appearing
10 in the Meiji Building in Tokyo on the 8th of April 1946,
11 where you were interrogated by Mr. A. A. Muzzev, with
12 Lieutenant Commander Huggins acting as interpreter,
13 at which time the following question was asked:
14

15 "To the best of your knowledge, how friendly
16 was General OSHIMA with Heinrich Himmler, and do you
17 know of any occasions when they met, socially or other-
18 wise?" to which you replied:

19 "Answer: Yes, they were friendly, and I be-
20 lieve they met quite often, although perhaps not in an
21 official capacity. Under ordinary circumstances I be-
22 lieve they saw a great deal of one another."

23 Did you or did you not make such a statement
24 in answer to the question?

25 A I do not think -- know whether I replied in
that manner. If it is so recorded, I must have replied

1 to that effect.

2 Q The rest of your affidavit relates to the
3 activities of OSHIMA in negotiating with the German
4 Government regarding the proposed military alliance
5 between Japan, Germany and Italy.

6 Did you know before your departure for Germany
7 that OSHIMA was engaged in negotiations for a military
8 pact?

9 A I know of no fact of OSHIMA working for a
10 military alliance.

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1 Q Well, what was OSHIMA working for?

2 A Ambassador OSHIMA left Germany about four
3 months before I left Germany. For a period of ten
4 months ending around August 1939, from the time I
5 went to Berlin and the time OSHIMA left Berlin, he
6 devoted his efforts mainly to strengthening the Anti-
7 Comintern Pact.

8 Q Let me ask you -- you are not answering my
9 question -- did you know before you left Japan that
10 OSHIMA was working for an alliance in Germany?

11 A Oh, you mean before I left Japan; I under-
12 stand now.

13 On September 1, 1938, I was suddenly called
14 to appear at the General Staff Office and was inform-
15 ally notified that I was to be appointed military
16 attache in Berlin. I did not leave Japan for my post
17 until the latter part of October; that is to say, I
18 was in Japan for about two months after receiving
19 such a nomination.

20
21 Q Just a minute. I regret to interrupt you
22 but you are not addressing your answer at all to my
23 question. My question is very simple. It is simply
24 this: did you know before leaving Japan for Germany
25 that OSHIMA was engaged in negotiating for an alliance
in Germany? Yes or no is the only appropriate answer.

1 A Yes.

2 Q Did the Chief of the Intelligence of the
3 General Staff advise you that OSHIMA had been named
4 Ambassador in order to bring about this alliance?
5 Yes or no is an appropriate answer.

6 A Yes.

7 Q Did you have frequent discussions with
8 OSHIMA regarding the progress of the negotiations
9 after you arrived in Germany?

10 A Yes.

11 Q Was it not the idea of OSHIMA and you to
12 have a strong pact aimed with Russia and England as
13 the objectives? Yes or no would be an appropriate
14 answer.

15 A It would not be proper to use the word
16 strong, but we were of the same mind in concluding a
17 pact of alliance such as suggested by you.

18 Q That is an alliance directed at Russia and
19 England?

20 A Yes.

21 Q In other words, if Germany became involved
22 in a war with England, Japan would participate in
23 that war. That was what you and OSHIMA advocated,
24 wasn't it?

25 A We had the idea that we must bear the

responsibility -- correction: -- bear the obligation.

1 Q That is, that you would be obligated to
2 engage in war under those circumstances?

3 A Yes.

4 Q And Germany had the same view that was
5 shared by you and OSHIMA, isn't that true?

6 A That is the way I heard of it.

7 Q So that Germany, which meant Hitler and
8 Ribbentrop, OSHIMA and you saw eye to eye?

9 A At least I was of that opinion.

10 Q Now let me ask you about the Japanese view,
11 that is, the view of the Japanese Government as
12 distinguished from yours, OSHIMA's and Ribbentrop's
13 views. Was it the view of the Japanese Government
14 that Japan would go to war in case of a German-
15 Russian conflict but could not promise to enter into
16 hostilities in case of a conflict between Germany
17 and Great Britain?
18

19 A That is the way I viewed it in Berlin.

20 Q How did you become acquainted with this
21 viewpoint of the Japanese Government?

22 A Explanations to that effect were given at
23 meetings within the Embassy in Berlin by the ambas-
24 sador.

25 Q And did you also obtain that information

1 from dispatches from the Japanese Government in
2 Tokyo?

3 A Yes, I learned from telegrams which came
4 from the General Staff Office in Tokyo.

5 Q So you knew the attitude of the Japanese
6 Government and that it was in opposition to the views
7 of Ribbentrop, didn't you?

8 A Yes, I did.

9 Q Did Ambassadors OSHIMA and SHIRATORI confer
10 frequently regarding these negotiations?

11 A I recall only two occasions in which these
12 two ambassadors met personally.

13 Q When were they?

14 A Once when Special Envoy ITO arrived in
15 Berlin, as I state in my affidavit, and then again
16 later on another occasion in Berlin, although I do
17 not recall the date, but my recollection is that this
18 was sometime quite later.

19 Q Do you recall a conference in Italy between
20 the two?

21 A Yes, I do.

22 Q When was that?

23 A I have no positive recollection as to the
24 date but I think it was in early spring in 1939 when
25 it was still quite cold.

1 Q Were you present?

2 A Yes.

3 Q Who else was present?

4 A Admiral ENDO, Naval Attache, was also
5 present, and I think a member of the staff of the
6 Embassy although I do not remember who he was.

7 Q Who else was present?

8 A In addition the Military and Naval Attaches
9 stationed in Rome.

10 Q Any others? Who represented Germany?

11 A No one was there representing Germany or
12 Italy.

13 Q What was the purpose of the meeting?

14, A Although I have no positive recollection
15 as to the contents of the discussion, the two
16 ambassadors talked with each other directly because
17 the question had become quite complicated, and my
18 further recollection is that no conclusion was reached
19 as a result of the discussion. My recollection is
20 that it was merely an exchange of views.

22 Q Did they share the same views, that is, the
23 two ambassadors?

24 A Do you mean in connection with this confer-
25 ence or through the entire period?

Q I will make it definite. Did SHIRATORI and

1 OSHIMA share the same views with regard to the
2 proposed pact between Germany and Japan, and, I may
3 add, your views also?

4 A In my present recollection the two ambas-
5 sadors were generally agreed and I also was in
6 agreement with them. However, viewing the situation
7 from the sidelines it appeared as if there was a
8 difference of opinions between the two ambassadors
9 with regard to diplomatic technique and procedure,
10 but with regard to that I have no opinions of my own.

11 Q You are referring to differences in procedure;
12 you are not referring to differences in fundamental
13 ideas regarding the pact, are you?

14 A No.

15 Q Was this conference before the ITO commission
16 arrived or afterwards?

17 A My recollection is that it was after the
18 arrival of the mission.

19 Q Now, these views that you state existed on
20 the part of OSHIMA regarding a pact between Germany
21 and Japan, I would like to ask you if OSHIMA passed
22 those views on to his government; in other words, did
23 he urge his views upon his government?

24 A I have no definite recollection whether he
25 urged the Japanese Government.

Q What was your position at this time?

1 A I personally desired the realization of this
2 pact and frequently I urged the army circles in Japan
3 not to dilly-dally and to bring the realization about
4 as soon as possible.

5 Q I asked you what your position was at this
6 time. Will you please answer? I meant to say your
7 station, if that makes a difference, or your official
8 position.

9 A I was the official Japanese military repre-
10 sentative stationed in Berlin and my duties included
11 to convey the views and opinions of the army to the
12 ambassador, to transmit the views and opinions of
13 the ambassador to the army in Japan, and also to
14 report to the army the progress of negotiations.

15 Slight correction: I felt these to be my
16 duty.

17 Q Then you were not just on the sidelines. You
18 were right in the middle of this game, weren't you?

19 A No, I had no idea of being right in the midst
20 of the whole thing because that was not my responsi-
21 bility.

22 Q You know from the nature of your position and
23 the duties which you performed that Ambassador OSHIMA
24 urged his views on the Japanese Government, do you not?
25

1 A As and when necessary I think Ambassador
2 OSHIMA transmitted his views to the Japanese Govern-
3 ment but I can't say whether he persuaded the Japanese
4 Government to accept them.

5 Q Are you referring to his views regarding
6 this proposed pact between Japan and Germany or are
7 you speaking in general terms?

8 A No, the former.

9 Q Well, to make it absolutely clear, did he
10 or did he not urge his views upon the Japanese
11 Government with regard to the advisability of enter-
12 ing upon this pact? I think you could answer that
13 yes or no.

14 A Yes.

15 Q What other means did he use to bring about
16 the adoption of this pact?

17 A I wish to add this remark. I do not remember
18 the date but Ambassador OSHIMA made a tour of the
19 important countries in Europe visiting the Japanese
20 ambassadors stationed in these countries in order to
21 hear their views and took measures of this nature as
22 a means of establishing his own views.
23

24 Q Explain to us how that occurred; what brought
25 about that trip.

 If the Tribunal please, I dislike to ask

1 this but I hope the Tribunal will bear with me
2 a few minutes and permit me to finish this immed-
3 iate point that I am with, in the event it runs over
4 a few minutes' time.

5 ACTING PRESIDENT: Very well.

6 Q (Continuing) Proceed.

7 A The impression that I gained was as follows:
8 I think that the Ambassador undertook this trip in
9 order to make clear and definite his belief by
10 meeting these ambassadors, Japanese ambassadors,
11 in these various European countries that it was
12 proper to enter into an alliance with Germany in the
13 light of the prevailing international situation.

14 Q That is, an alliance which would obligate
15 Japan to participate in a European war if England
16 became involved in war with Germany?
17

18 A Yes.

19 Q Give me the names of the ambassadors that
20 he interviewed on that trip and the countries to
21 which they were accredited.

22 A London, and if my recollection is correct
23 the ambassador was Mr. SHIGEMITSU; Ambassador KURUSU
24 in Belgium. Although I may be mistaken with regard
25 to the two that I have named, but I am quite certain
that he did make a trip to these two countries.

1 Q What others?

2 A I can't recall.

3 Q Did he take this trip on his own initiative
4 or was he directed to do so by his government?

5 A I do not recall that.

6 Q When he returned did he tell you that
7 KURUSU shared his views about this matter and
8 approved them?

9 A Do you mean KURUSU?

10 Q Yes. I will restate the question.

11 Upon OSHIMA's return, did he tell you that
12 KURUSU shared his views and approved his views that
13 we have just been discussing?

14 A In my recollection OSHIMA, following his
15 trip and his talks with the heads of Japanese missions
16 in the various European countries, told me that in his
17 impression most of these heads of missions did not
18 clearly express their approval and Ambassador KURUSU,
19 of whom you just inquired, was included among these
20 heads of missions.

22 Q But nevertheless OSHIMA continued to press
23 his views for the approval of the pact as originally
24 planned, is that not true?

25 A I do not interpret OSHIMA's position as being
that he had pressed these ambassadors for approval.

1 At least I think that OSHIMA at least expressed his
2 views as frankly as he possibly could and submitted
3 his own views to examination.

4 MR. TAVENNER: Thank you very much, if your
5 Honor please. That is as far as I will attempt to
6 go this afternoon.

7 ACTING PRESIDENT: We will adjourn until
8 nine-thirty Monday morning.

9 (Whereupon, at 1605, an adjournment
10 was taken until Monday, 24 November 1947,
11 at 0930.)

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24 NOVEMBER 1947

I N D E X
Of
WITNESSES

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24 NOVEMBER 1947

I N D E X
Of
EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
4188		3497	Interrogation of KAWABE, Torashiro	33795	
2738	3498		Affidavit of MATSUI, Iwane		33812

1 Monday, 24 November 1947

2 - - -
3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -
12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia and
16 HONORABLE JUSTICE R. B. PAL, Member from India, not
17 sitting from 0930 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.
20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
24
25

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 T O R A S H I R O K A W A B E, recalled as a
4 witness on behalf of the defense, resumed
5 the stand and testified through Japanese
6 interpreters as follows:

7 MR. TAVENNER: If the Tribunal please.

8 ACTING PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: We are informed that the accused
10 MATSUI is in court this morning, and we are discussing
11 now the matter of completing the testimony in his phase.
12 It is my suggestion that upon the completion of the
13 testimony of the witness in the box, we proceed to
14 complete the MATSUI phase. I think it is the safest
15 thing to do in view of the state of health of MATSUI,
16 and I understand there is no objection from defense
17 counsel in the OSHIMA phase.

18 ACTING PRESIDENT: How does the counsel for
19 OSHIMA feel about that?

20 MR. CUNNINGHAM: There is no objection on our
21 part on that course of action.

22 ACTING PRESIDENT: How about the counsel for
23 MATSUI?
24

25 MR. TAVENNER: He was here a moment ago and I
understood he was ready to proceed. It has been our

1 understanding all the while that when he was able to
2 be in court counsel would proceed, subject, of course,
3 to the approval of the Tribunal.

4 ACTING PRESIDENT: The Court prefers to have
5 the evidence of each accused put on all at once without
6 any interruption whenever it is possible. In view of
7 the situation here with MATSUI, the accused MATSUI,
8 the majority would like to hear it at the conclusion
9 of the testimony of the witness now on the stand.

10 MR. TAVENNER: Mr. Marshal, will you notify
11 counsel for MATSUI of the decision of the Court.

12 ACTING PRESIDENT: Mr. Tavenner.

13 CROSS-EXAMINATION

14 BY MR. TAVENNER (Continued):

15 Q General KAWABE, what countries did Ambassador
16 OSHIMA visit in addition to England and Belgium?

17 A I have no recollection.

18 Q What did Ambassador OSHIMA tell you that the
19 ambassadors in England and Belgium would do with regard
20 to advising the Foreign Office in Japan as to the course
21 that should be followed with respect to the proposed
22 alliance?

23 A I heard nothing from OSHIMA regarding that.

24 Q Did Ambassador OSHIMA return to Berlin between
25 visits to these two countries, or were they both

visited on the same trip?

1 A In my recollection, it was at one time.

2 Q Please fix the date of this trip and the
3 period of its duration.

4 A I have no clear recollection of that, but the
5 impression which remains in my mind is -- and this is
6 a very vague one -- it was yet spring in 1939.

7 Q Was it not prior to February 25, 1939?

8 A I regret to say that I cannot recall.

9 Q Was it before or after the arrival in Berlin
10 of the ITO Commission?

11 A I think it was after, but even this is unclear.
12 I cannot say definitely.

13 Q Would this help your recollection: Was the
14 ITO Commission present in Berlin when this trip was
15 made?

16 A I do not think the ITO Mission was in Berlin
17 at the time.

18 Q Who accompanied the Ambassador?

19 A I think the Ambassador brought one of the
20 secretaries of the Embassy, but I do not think any
21 special person accompanied him.

22 Q Did OSHIMA travel incognito?

23 A I think not. I don't think that happened.

24 Q Do you recall at some later date that Ambassador
25

1 OSHIMA called a conference of ambassadors and ministers
2 in Berlin; and if so, what is the date of this
3 conference?

4 A I have no recollection of a conference of
5 ambassadors and ministers in Berlin.

6 Q On Friday afternoon, page 33,779 of the tran-
7 script, you stated that your official duties required
8 you to transmit views and opinions of the Ambassador
9 to the army in Japan. Did you fully perform this duty
10 while you were Military Attache?

11 A Yes, I carried it out to the best of my
12 ability.

13 Q Was it your practice and did you confer with
14 the Ambassador before sending your messages to Japan?

15 A I have never shown the Ambassador the messages
16 which I transmitted to Japan.

17 Q But did you discuss them with the Ambassador
18 before you sent them?

19 A Customarily, these messages were transmitted
20 after sufficient study of various problems dealt with
21 in the messages had been studied in the Embassy. Dis-
22 cussions were held in the Embassy among myself, the
23 Naval Attache, and staff members of the Embassy, and
24 various issues or problems were put under study at
25 these discussions, and after fully understanding the

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1 aims and intentions of the ambassadors, these messages
2 were sent out.

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1 Q Were your messages on occasion sent to War
2 Minister ITAGAKI?

3 A No, not once.

4 Q Did War Minister ITAGAKI on occasions com-
5 municate with you?

6 A Yes, once.

7 Q Tell us about it.

8 A Yes.

9 Q Let me interrupt you. Is that the same
10 occasion that you spoke of in your affidavit?

11 A Yes.

12 Q Well, having already stated that, I will not
13 ask you to repeat it. Were there any other occasions
14 when you received a message from the War Minister
15 ITAGAKI?

16 A I couldn't understand that last question.
17 May I have it repeated?

18 THE MONITOR: Japanese court reporter.

19 MR. TAVENNER: It will be shorter for me to
20 ask the question over.

21 Q Were there any other communications received
22 by you from War Minister ITAGAKI?

23 A No.

24 Q General KAWABE, was OSHIMA pro-Nazi in his
25 views and attitude?

Please answer.

1
2 A I could not express his attitude or views
3 by the word "pro-Nazi."

4 Q Did he express to you -- strike that ques-
5 tion. What do you mean, you cannot express his views?

6 A I cannot explain in the sense of his being
7 pro-Nazi.

8 Q Well, isn't it true that he was pro-Nazi?

9 A No, I do not say so.

10 Q Now, as a matter of fact didn't he express
11 his pro-Nazi views to you?

12 A Ambassador OSHIMA impressed me as having
13 good will toward the nation in which he was stationed,
14 that is to say Germany, but he has never at any time
15 expressed any sentiments of pro-Nazism.

16 Q I will ask you another question from your
17 interrogation referred to yesterday. In view of your
18 answer to my last two questions I desire to ask you
19 if at the time of the interrogation mentioned in the
20 early part of your cross-examination the following
21 questions were asked you and you made the following
22 answers to them:

23 "Q You would, therefore, say that OSHIMA was
24 pro-Nazi in his attitude, would you not?

25 "A Yes.

1 "Q Did OSHIMA express to you his pro-Nazi
2 attitude?

3 "A Yes. He told us many things about the good
4 points of Nazi ideology. General OSHIMA was a man
5 who had spent many years in Germany, spoke German
6 proficiently, and knew Germany and the Germans well,
7 was very fond of them, and was extremely pro-German
8 in his ideas. He was very fond of Hitler, and his
9 views and Ribbentrop's seemed to coincide. I don't
10 believe he got along very well with Goering."

11 Were not those questions asked and those
12 answers made?

13 A What I now recall in connection with this
14 question and answer is that, as you will see, at the
15 first part and the latter part of this statement
16 said to have been made by me there is some confusion
17 between Nazi and Germany. When I was stationed in
18 Germany that country was completely under the domina-
19 tion and control of the Nazi, and so when I was asked
20 this question in the Meiji Building I used the word
21 "Nazi" in speaking of Germany -- I took the word
22 "Nazi" to mean Germany in my answers.
23

24 Q Now, will you answer my question? Did you
25 make that answer or not? Answer that question and
then make such explanation as you desire to make.

1 A I have a recollection that such questions,
2 such types of questions and answers took place; but
3 I do not recall whether or not the phraseology or
4 words were actually those that were just quoted to me.

5 Q All right. Now, you drew a distinction
6 between Germany and the Nazi Party. When you made the
7 statement in this interrogation that OSHIMA's views
8 and Ribbentrop's seemed to coincide you meant with
9 the Nazi views, didn't you, because you well knew
10 that Ribbentrop's views were the Nazi views?

11 A I am speaking of the character of von Ribben-
12 trop as the character of the German Foreign Minister.

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2 such types of questions and answers took place; but
3 I do not recall whether or not the phraseology or
4 words were actually those that were just quoted to me.

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6 between Germany and the Nazi Party. When you made the
7 statement in this interrogation that OSHIMA's views
8 and Ribbentrop's seemed to coincide you meant with
9 the Nazi views, didn't you, because you well knew
10 that Ribbentrop's views were the Nazi views?

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12 trop as the character of the German Foreign Minister.
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1 MR. TAVENNER: I offer in evidence IPS
2 document No. 4188, which is the interrogation of
3 this witness, supported by certificate of A. A.
4 Muzzey, interrogator, and to which is attached
5 certificate of Lieutenant Commander F. B. Huggins
6 as interpreter and Hannah Kato as stenographer. As
7 the pertinent parts have been read to the witness
8 in the course of the cross-examination I do not
9 think it necessary to take the time of the Court
10 in reading them again.

11 ACTING PRESIDENT: Are you going to enter
12 the entire interrogation or just excerpts therefrom?

13 MR. TAVENNER: I did offer the entire
14 interrogation, but I think it would be more proper
15 to only offer the excerpts. However, I have no
16 objection to the entire interrogation; so I think
17 I should limit the tender to the excerpts which have
18 been mentioned.

19 ACTING PRESIDENT: Should you not introduce
20 or tender the entire document for identification?

21 MR. TAVENNER: Yes, sir.

22 ACTING PRESIDENT: Then the excerpts in
23 evidence later.

24 MR. TAVENNER: Yes, sir. I make the tender
25 in compliance with this suggestion.

1 ACTING PRESIDENT: The entire document
2 may be admitted for identification only.

3 CLERK OF THE COURT: The interrogation
4 of KAWABE, Torashiro will receive exhibit No. 3497
5 for identification only.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution exhibit No.
8 3497 for identification.)

9 MR. TAVENNER: Now, if it please the Tribunal,
10 I think it would save considerable time and work if
11 instead of introducing excerpts later that I read
12 now into the transcript what would be those excerpts
13 and let that be the end of the matter.

14 ACTING PRESIDENT: Haven't you practically
15 done that already?

16 MR. TAVENNER: I have, sir. The only
17 problem with which I am faced is to make certain
18 that those matters are in evidence as distinguished
19 from merely being in evidence for identification. It
20 will only require one or two minutes to read those
21 two excerpts.
22

23 ACTING PRESIDENT: That would probably be
24 the most practical way, but I would like to hear from
25 counsel for the accused first.

 MR. SHIMANOUCI: The defense objects to

1 this method of presentation of evidence by the
2 prosecution.

3 Our reasons for objecting is first that
4 this document has not been identified by the witness.
5 Furthermore the witness has testified that there
6 are some parts of this interrogation which are
7 contrary to what he actually said.

8 Furthermore I object to the prosecution
9 presenting its evidence during the defense phase of
10 the case.

11 ACTING PRESIDENT: So far as the objections
12 are concerned, the witness has accepted the statements
13 made on that interrogation. The two excerpts that
14 you questioned the witness on may be introduced in
15 evidence and you may read them into evidence.

16 The objections are overruled.

17 MR. TAVENNER: I read on page 7 the following
18 questions and answers:

19 "Q You would therefore say that OSHIMA
20 was pro-Nazi in his attitude, would you not?

21 "A Yes.

22 "Q Did OSHIMA express to you his pro-Nazi
23 attitude?
24

25 "A Yes, he told us many things about the
good points of Nazi ideology. General OSHIMA was a

1 man who had spent many years in Germany, spoke
2 German proficiently and knew Germany and Germans
3 well, was very fond of them and was extremely pro-
4 German in his ideas. He was very fond of Hitler and
5 his views, and Ribbentrop's seemed to coincide. I
6 don't believe he got along very well with Goering."

7 The second excerpt is as follows and appears
8 on the same page and follows the excerpt just read:

9 "Q To the best of your knowledge how
10 friendly was General OSHIMA with Heinrich Himmler, and
11 do you know of any occasions when they met socially
12 or otherwise?

13 "A Yes, they were friendly and I believe
14 they met quite often, although perhaps not in an
15 official capacity. Under ordinary circumstances I
16 believe they saw a great deal of one another."

17 ACTING PRESIDENT: You don't seem to save
18 much time by this procedure and we do not want to
19 take it as a precedent. We would prefer that here-
20 after you submit such evidence in the form of excerpts
21 as heretofore.
22

23 MR. TAVENNER: Very well, sir.

24 There are no further questions.

25 ACTING PRESIDENT: Mr. Furness.

MR. FURNESS: For the defendant SHIGEMITSU.

1 man who had spent many years in Germany, spoke
2 German proficiently and knew Germany and Germans
3 well, was very fond of them and was extremely pro-
4 German in his ideas. He was very fond of Hitler and
5 his views, and Ribbentrop's seemed to coincide. I
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18 much time by this procedure and we do not want to
19 take it as a precedent. We would prefer that here-
20 after you submit such evidence in the form of excerpts
21 as heretofore.

22 MR. TAVENNER: Very well, sir.

23 There are no further questions.

24 ACTING PRESIDENT: Mr. Furness.

25 MR. FURNESS: For the defendant SHIGEMITSU.

1 ACTING PRESIDENT: Is this cross-examination?

2 MR. FURNESS: Yes, sir.

3 CROSS-EXAMINATION (Continued)

4 BY MR. FURNESS:

5 Q General KAWABE --

6 ACTING PRESIDENT: I didn't hear your answer.

7 MR. FURNESS: I said, "Yes, sir."

8 Q General KAWABE, after Ambassador OSHIMA's
9 trip to England and Belgium did you hear from him
10 or from anyone else that Ambassador SHIGEMITSU had
11 expressed his approval of the proposed Pact?

12 MR. TAVENNER: Objection is made to the
13 question on the ground that it was answered yesterday
14 and there was nothing uncertain and nothing left
15 to be cleared up in regard to that matter.

16 MR. FURNESS: If the Court please --

17 ACTING PRESIDENT: You mean as of Friday,
18 not yesterday.

19 MR. FURNESS: If the Court please, according
20 to the record -- I think it may not be correct -- it
21 says that "Ambassador OSHIMA told me that in his
22 impression most of the heads of missions did not
23 clearly express their approval." And Ambassador
24 KURUSU, of whom you just inquired, was included among
25 these heads of missions. Then it goes on and

1 says that most of the heads of these missions did
2 not clearly express their approval and that Ambassador
3 KURUSU is mentioned and not Ambassador SHIGEMITSU.

4 ACTING PRESIDENT: Objection overruled.

5 MR. FURNESS: Will the question then be
6 repeated to the witness.

7 (Whereupon, the Japanese court reporter
8 read.)

9 A No, I have not.

10 MR. FURNESS: That is all.
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1 ACTING PRESIDENT: Mr. Shimanouchi.

2 MR. SHIMANOUCHI: Last Friday, I forgot to
3 ask the witness if the affidavit, the revised
4 affidavit, defense document 2652, court exhibit
5 3469 -- I forgot to ask the witness if the contents
6 thereof were true and correct. With the Tribunal's
7 permission, I should like to be permitted to ask
8 this question.

9 ACTING PRESIDENT: Go ahead and question
10 him.

11 MR. SHIMANOUCHI: I ask the witness.

12 REDIRECT EXAMINATION

13 BY MR. SHIMANOUCHI:

14 Q I ask you, Mr. Witness, if the contents of
15 the affidavit -- of your revised affidavit, defense
16 document 2562, which is now court exhibit 3496,
17 which I presented to this Tribunal and read last
18 Friday, are true and correct?

19 A Yes.

20 Q In reply to a question put to you by the
21 prosecutor, you said that you never heard that
22 OSHIMA ever met Himmler, but when you were inter-
23 rogated in the Meiji Building on the 6th of April,
24 1946, you replied that you believed that they met
25 quite often. It appears that the reply which you

1 made then contradicts the reply which you made later.
2 I should like your explanation on this point.

3 A The answer, which I gave at the time of my
4 interrogation in the Meiji Building in April, last
5 year, was based on my observations and presumptions.
6 In other words, it was my observation and impression
7 that General OSHIMA was long a resident in Germany
8 and, consequently, had many friends in that
9 country. At that time, Himmler was one of the
10 important and influential leaders of Germany, and
11 naturally I supposed that General OSHIMA was on
12 friendly terms with him and had opportunities to
13 meet him quite often.

14 The question put to me by the prosecution,
15 in my understanding -- that is, the question put to
16 me by the prosecutor last Friday was, in my under-
17 standing a question of fact, whether I knew whether
18 OSHIMA and Himmler actually were friends or that
19 OSHIMA and Himmler had a meeting or meetings, and
20 it was to that question that I replied, and hence
21 I do not believe that there is any inconsistency in
22 those two answers.

23
24 Q Did you see or hear of OSHIMA meeting
25 - Himmler towards the end of January, 1939?

A No, I know nothing.

1 Q You also made a reply to a question put to
2 you by the prosecutor, as follows: After reaching
3 Berlin, you often consulted with OSHIMA in regard
4 to negotiations going on between Japan and Germany
5 for the conclusion of a treaty. You also replied
6 that your views were in agreement with those of
7 OSHIMA.

8 When you talked with OSHIMA on this ques-
9 tion, did you talk to him alone, or were others
10 present at the meeting?

11 A I believe that Ambassador OSHIMA took
12 into consideration and study, as reference, the
13 views and opinions of others in regards to this
14 question. With regards to this question, whenever
15 I participated in Ambassador OSHIMA's study of the
16 question, the meetings were held in a room in the
17 embassy or in a room in the official residence of
18 the Ambassador. Participating in the meeting at
19 all times were the consular and other staff members
20 of the embassy, the naval attache, and myself.

21 ACTING PRESIDENT: You have answered the
22 question.

23 Q During the course of your cross-examination,
24 you stated that OSHIMA was of the belief that in
25 the case of a war between Germany and Great Britain,

1 Japan should shoulder the obligation of fighting
2 Great Britain.

3 Did OSHIMA advocate that, in the case of
4 an Anglo-German war, Japan should actually,
5 immediately organize a war, mobilize her army,
6 and fight Great Britain?

7 A Ambassador OSHIMA, in this case, advocated
8 the necessity of Japan participating as an obligation,
9 in principle, but participation in war, in his
10 sense, was vague and broad. He did not mean that
11 armed forces immediately should be used to render
12 assistance to Germany.

13 Q Did OSHIMA desire or advocate the necessity
14 of Japan's becoming embroiled in the war, should
15 such a war break out in Europe between Germany and
16 Great Britain?

17 MR. TAVENNER: Objection, if your Honor
18 please. The matter was answered in cross-examination.

19 THE INTERPRETER: The witness started to
20 reply, "He neither desired nor - -"

21 ACTING PRESIDENT: Objection sustained.
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1 Q Why did OSHIMA say that Japan should shoulder
2 the obligation of fighting Great Britain if an Anglo-
3 German war should break out?

4 A He gave the following explanations: It was the
5 general contention that when Japan and Germany should
6 conclude such an assistance pact, then the Japanese side
7 should shoulder the same obligations which Germany would
8 shoulder.

9 Q What do you mean by equal obligations?

10 A In other words it means this, that whereas in
11 the event of a possible Japanese -- Anglo-Japanese war,
12 the German side agreed to participation in the war in
13 principle. I am speaking of the fact that the situation
14 should not be unilateral; that if the German side should,
15 in the event of an Anglo-Japanese war, shoulder obliga-
16 tions to participate in that war in principle, then in
17 the event of a German -- Anglo-German war, the Japanese
18 would in principle not recognize such obligations.
19 That would be a very superficial and unilateral view.

20 Q Did Japan's obligations to participate in the
21 war include the obligation to participate when Germany
22 attacked Great Britain, or was it restricted solely to
23 a case where Germany was attacked by Great Britain?
24

25 MR. TAVENNER: If the Tribunal please.

ACTING PRESIDENT: Mr. Tavenner.

1 MR. TAVENNER: It appears to me that the re-
2 direct examination is going far beyond the cross-
3 examination and is of a highly hypothetical nature.

4 ACTING PRESIDENT: Yes, and somewhat repetitious.

5 MR. SHIMANOUCHI: May I reply, your Honor?

6 ACTING PRESIDENT: You may.

7 MR. SHIMANOUCHI: I do not believe that my re-
8 direct is exceeding the bounds of cross-examination.
9 The prosecutor has charged that OSHIMA advocated the
10 signing of a treaty that was aggressive, and therefore
11 it is always important that the defense should prove
12 that this treaty was not offensive in character, but
13 defensive.

14 Secondly, the prosecutor has charged that my
15 question was hypothetical, but I was asking the wit-
16 ness actually under what circumstances Japan would be
17 obliged to enter the war, and I was not dealing with
18 hypotheses; I was dealing with actualities.

19 Furthermore, in relation to this question, on
20 record page 33,774 counsel for the prosecution asked
21 the following question:
22

23 "Did not you and OSHIMA advocate that if
24 Germany should be involved in a war with Great Britain,
25 Japan should participate in this war?" and to this
question the witness replied:

1 MR. TAVENNER: It appears to me that the re-
2 direct examination is going far beyond the cross-
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17 obliged to enter the war, and I was not dealing with
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19 Furthermore, in relation to this question, on
20 record page 33,774 counsel for the prosecution asked
21 the following question:
22

23 "Did not you and OSHIMA advocate that if
24 Germany should be involved in a war with Great Britain,
25 Japan should participate in this war?" and to this
question the witness replied:

1 "We believed that we must bear the obligation."

2 ACTING PRESIDENT: You have argued that far
3 enough. We take up too much time arguing these ques-
4 tions of admission of evidence. I think you have gone
5 into this matter most thoroughly.

6 Objection sustained.
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1 Q During the course of your cross-examina-
2 tion you stated that you knew that OSHIMA submitted
3 his views in regard to the proposed pact to the
4 Japanese Government, but that you didn't know whether
5 he urged his views on the government. But, on the
6 other hand, you have also testified that OSHIMA
7 urged the Japanese Government to accept his views
8 in regard to the pact. Which reply is correct?
9

10 A If my memory serves me right, the latter
11 answer I am said to have given is to the effect
12 that whether I stated OSHIMA had prevailed upon the
13 Japanese Government to accept his views and opinions
14 on the pact, I think my expression was that Ambassador
15 OSHIMA urged the Japanese Government to accept his
16 views and opinions, and my answer was "Yes" to the
17 question whether or not he had urged the Japanese
18 Government, and not whether he had prevailed upon
19 or appealed to the Japanese Government to accept
20 his views.

21 Q What does "urge" mean, practically speaking?

22 MR. TAVENNER: If it please the Tribunal, it
23 seems that the questions are becoming argumentative.
24 The witness's answers are plain. I object to further
25 questioning on that point in that manner.

 ACTING PRESIDENT: I don't understand the .

1 question. Will the court reporter read it?

2 (Thereupon, the last question
3 was read by the official court reporter.)

4 Objection overruled.

5 BY MR. SHIMANOUCHI:

6 Q Please reply.

7 A I made my reply to the prosecutor which
8 you have just read back to me in the following mean-
9 ing, that is, with the following facts as the basis
10 for my reply. The facts of which I speak are these:
11 that after Ambassador OSHIMA submitted his views
12 and opinions on the government, the return instruc-
13 tions of the government stating whether it was accept-
14 ing or not accepting his views and opinions did not
15 come for a long time.

16 ACTING PRESIDENT: We will recess for fifteen
17 minutes.

18 (Thereupon, at 1045, a recess was
19 taken until 1100, after which the proceed-
20 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 BY MR. SHIMANOUCI (Continued):

4 Q Witness, please continue your reply.

5 ACTING PRESIDENT: You were asked the ques-
6 tion, what you meant by urge. It does not require a
7 long dissertation to answer that question. You can
8 answer it in just a few words.

9 A It was to urge the Japanese Government to
10 send a reply.

11 Q During the course of these negotiations
12 did you know of any occasion when OSHIMA disregarded
13 or disobeyed the instructions of the Japanese Govern-
14 ment?

15 A No.

16 Q One final question. To return to the problem
17 of Germany's becoming involved in a war if Japan were
18 to shoulder the obligation of aiding Germany, in such
19 a case under what circumstances would Japan be
20 obliged to aid Germany?

21 MR. TAVENNER: If the Tribunal please, that
22 certainly is a hypothetical question, not based on
23 any facts brought out in this witness' testimony. It
24 presupposes going into matters which were not the
25 subject of this man's testimony.

1 MR. SHIMANOUCHI: This question refers to
2 the prosecutor's question asked on record page 33,774.
3 As I said before, the prosecutor then asked the ques-
4 tion, if Germany were to fight Great Britain, would
5 Japan go to war, did OSHIMA advocate that Japan must
6 participate in that war; and the witness replied that
7 he thought Japan should shoulder the obligation of
8 going to war. Therefore I asked the witness my
9 present question to find out whether under such
10 circumstances Japan was to go to war unconditionally
11 or whether it was otherwise?

12 ACTING PRESIDENT: You have already gone
13 into that. Objection sustained.

14 MR. SHIMANOUCHI: This concludes my redirect.
15 May the witness be excused on the usual terms?

16 ACTING PRESIDENT: He may be so excused.

17 (Whereupon, the witness was excused.)

18 Mr. Mattice.

19 MR. MATTICE: We now call the accused MATSUI,
20 Iwane to the stand.

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1 I W A N E M A T S U I, an accused, being first
2 duly sworn, testified through Japanese inter-
3 preters as follows:

4 DIRECT EXAMINATION

5 BY MR. MATTICE:

6 Q Mr. MATSUI, you are one of the accused in
7 this trial, are you not?

8 A Yes, I am.

9 MR. MATTICE: May the witness be handed
10 defense document 2738?

11 (Whereupon, a document was handed to
12 the witness.)

13 Q Will you examine the instrument which has
14 been handed you, defense document 2738, and tell this
15 Tribunal whether that is your affidavit?

16 A This is my affidavit.

17 Q I understand there are some corrections
18 which you desire to make in the affidavit.

19 A Yes, there are two corrections I should like
20 to make.

21 Q What is the first one?

22 A The first correction is to be made in para-
23 graph numbered 6. This is page 12 of the English
24 text of the affidavit, the second line, where it
25 says "I left on the 20th," this should be, "I left

on the 21st."

1 The second correction is to be made on
2 page 21 of the English text, the middle of the
3 paragraph numbered 11. The pertinent passage is to
4 be found on line 3 of page 21: "I went to Admiral
5 Kaney," should read, "I went to Admiral Yarnell."
6

7 Q With those corrections, General, are the
8 matters and things set forth in your affidavit true?

9 A Yes.

10 MR. MATTICE: Offer it in evidence, if the
11 Tribunal please.

12 ACTING PRESIDENT: It will be admitted.

13 CLERK OF THE COURT: Defense document 2738
14 will receive exhibit No. 3498.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3498 and received in evidence.)

18 MR. MATTICE: I will now read exhibit 3498,
19 omitting the formal parts, beginning with the paragraph
20 numbered 1:

21 "1. The motive and object of the Japanese
22 Government for the despatch of its troops to the
23 southern part of Chiangsu Province in 1937.

24 "Owing to the discord between Japan and"
25 China in North China in July 1937, an anti-Japanese

1 movement among the Chinese army and civilians in
2 Shanghai district grew intense day by day. The
3 Chinese Army, disregarding the Truce Agreement
4 concluded in 1932, persistently concentrated its
5 troops around the Japanese settlement in Shanghai,
6 threatened the Japanese troops and residents there,
7 finally leading to the assassination of Sub-Lieutenant
8 OYAMA on August 9, and the Japanese troops and resi-
9 dents were exposed to danger. Therefore, the Japanese
10 Government, realizing the necessity of quickly re-
11 nforcing its naval force there in order to protect
12 the lives and interests of Japanese residents, decided
13 on 15 August to hurriedly dispatch to Shanghai an
14 Expeditionary Force consisting of 3d and 11th (one
15 brigade less) divisions. I was appointed the Commander
16 in Chief and the troops were sent successively to
17 Shanghai on board warships on and after 20 August of
18 the same year.

19 The object and mission of the Expeditionary
20 Force was to reinforce our naval force and protect the
21 lives and property of our residents in and about
22 Shanghai.

23 "2. The reason why I, a reserve officer, was
24 specially appointed Commander in Chief and the state of
25 my mind at that time.

1 "During my forty years' service in the Army,
2 i.e., from 1894, the year in which I entered Military
3 Preparatory School, up to 1935, the year in which I
4 was placed on the reserve list, I was in the following
5 positions successively: A member of General Staff
6 Headquarters, Chief of Second Section, General Staff
7 Headquarters, Commander of 11th Division, Commander in
8 Chief of the Taiwan Army, etc. During my military
9 career, I was stationed in North and South China for
10 about twelve years altogether and not only did I
11 do my best during this time to bring about cooperation
12 between Japan and China, but also, since my younger days
13 all through my life I worked hard so that Japan and
14 China could be on friendly terms and that Asia could
15 be built up again. The greater part of my work in
16 the Army was also in line with these ideals.

17 "In 1937, the Shanghai Incident broke out
18 and the Expeditionary Force was despatched there in
19 haste. The Minister of War himself told me that the
20 reason why I, who had been on the reserve list, was
21 appointed the Commander was because of my past experience
22 referred to above.

23 "My appointment was due to the fact that at
24 that time the Japanese Government's policy towards
25 China was to settle the Incident locally as soon as

1 possible and to prevent the armed conflict from
2 spreading.

3 "I was always firm in the belief that the
4 strife between Japan and China was a quarrel between
5 brothers in the so-called 'household of Asia' and
6 that it was an unavoidable expedience for Japan to
7 rescue by force the Japanese residents in China and
8 to protect our endangered rights and interests. It
9 was no different from an elder brother thrashing his
10 young and recalcitrant brother after putting up with
11 him for so long. The action was to make China come
12 to her senses, not out of hatred, but out of love.
13 Therefore, when I assumed the command of the
14 Expeditionary Force I promised myself to settle the
15 trouble between Japan and China on this belief and
16 hoped to make the despatch of the Expeditionary
17 Force not a cause of mutual enmity but something that
18 would help to bring about friendly relations and co-
19 operation between the two nations. So I demanded of
20 my officers that they make every one of their men
21 thoroughly understand the true meaning of the
22 expedition in question. The following points were the
23 gist of my instructions I gave to the troops upon their
24 dispatch:

25 "(1) Fighting in the vicinity of Shanghai

1 possible and to prevent the armed conflict from
2 spreading.

3 "I was always firm in the belief that the
4 strife between Japan and China was a quarrel between
5 brothers in the so-called 'household of Asia' and
6 that it was an unavoidable expedience for Japan to
7 rescue by force the Japanese residents in China and
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21 thoroughly understand the true meaning of the
22 expedition in question. The following points were the
23 gist of my instructions I gave to the troops upon their
24 dispatch:

25 "(1) Fighting in the vicinity of Shanghai

MATSUI

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1 is only aimed at the subjugation of the Chinese
2 troops challenging us, therefore, the Chinese
3 officials and people should be pacified and protected
4 as much as possible.

5 "(2) Always bear in mind not to bring
6 troubles upon any foreign residents and troops and
7 keep in close contact with the foreign authorities
8 and armies in order to avoid misunderstanding.

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1 "3. The fighting situations in and about
2 Shanghai. The Shanghai Expeditionary Force arrived
3 one unit after another in Maan Islands at the mouth
4 of the Yangtze River on and after August 22. At this
5 juncture a report was received that the troops and
6 residents in Shanghai were in danger. So at dawn on
7 August 24 I tried hurriedly to disembark the arriving
8 troops at Woosung and also along the bank farther up
9 the river to establish communications with the Japanese
10 Naval Force, by driving out the Chinese troops who were
11 occupying the position there.

12 "However, according to the reports received the
13 number of the Chinese troops stationed in Shanghai and
14 along the banks of the Yangtze River, west of Shanghai,
15 was approximately estimated at a hundred thousand and
16 they sought our landing troops everywhere and made violent
17 attacks. After 15 or 16 days of bitter fighting and at
18 great sacrifice, the Expeditionary Force finally
19 succeeded in securing a position along the bank. But the
20 Chinese counter-attacks intensified more and more, and
21 their force, being reinforced from Nanking and Hangchow
22 areas, reached more than 30 or 40 divisions. In meeting
23 this, our Expeditionary Force was also reinforced in
24 proportion and on November 5, 10th Army-(more than 3
25 divisions) under Lt.-Gen. YANAGIWA was landed on the

coast of Chekiang Province to cooperate with the Force.

1 Thus, the Expeditionary Force, after fighting desperately
2 for more than two months, was barely able to drive the
3 Chinese Army out from the vicinity of Shanghai and to
4 occupy the city towards the end of October and the
5 beginning of November, giving security to the Japanese
6 residents.

7 "During the fighting what attracted my attention
8 especially were as follows: The anti-Japanese sentiment
9 of the Chinese officials and people around Shanghai was
10 very strong, and the guard unit of Chiang Kai-shek was
11 most daring in counter-attacks.
12

13 "With their retreat route blocked by their super-
14 vising troops, other various units also resisted
15 stubbornly but were finally driven back in confusion.
16 Before their retreat, the Chinese troops adopted the
17 so-called 'clearance tactics' and either destroyed or
18 burnt main transportation facilities and buildings. Some
19 of them changed their uniforms to plain clothes, and
20 turned guerrillas, sniping at our soldiers and threatening
21 our rear. The local people also cooperated with their
22 troops by cutting telegraph wires or arranging signal
23 fires, jeopardizing our troops to no end. I was also
24 aware of many instances where the troops and nationals
25 of England, America, France, etc., in sympathy with the

1 Chinese troops, intentionally gave assistance to them
2 and obstructed our military movements in many ways.
3 Furthermore, I felt keenly that the above-mentioned
4 Chinese attitude and the long and bitter fighting had
5 estranged the Chinese Army and people in Central China
6 from the Japanese Army, causing a hostile feeling between
7 the two. Meanwhile, I instructed my officers and men
8 to give protection and be decent to the Chinese people
9 and to have a regard for the foreign rights and interests
10 in China. As one example of the results of this
11 instruction the battle in Nanshi (southern district of
12 Shanghai) ended, as I had ordered, without causing any
13 damage to the district.

14 "4. The Organization of the Central China Area
15 Army and the circumstances that lead to the decision to
16 attack Nanking.

17 "Immediately after the 10th Army's landing at
18 Hangchow Bay on 5 November 1937, what was the Shanghai
19 Expeditionary Force and the 10th Army were organized into
20 the Central China Area Army. I was then appointed the
21 Commander of this new Army. For a while I served as the
22 Commander of the Shanghai Expeditionary Force concurrently.
23

24 "The Central China Area Army Headquarters was
25 over the Shanghai Expeditionary Force Headquarters and the
10th Army Headquarters, and its mission was to unify the

1 command of these two units. However, since it had only
2 seven staff officers, its duty was limited to giving
3 operational instructions to the two headquarters, and
4 had no authority to dispose the entire intendance and
5 medical matters of the army in general.

6 "Therefore, after I was relieved from my concurrent
7 post on December 7, i.e., the Commandership of the
8 Shanghai Expeditionary Force, my relation with the
9 officers and men in the field in regard to the command
10 and supervision was entirely indirect.

11 "The Central China Area Army, after driving the
12 Chinese Army out of the Shanghai area, occupied the line
13 between Chiahsing in Chekiang Province, Soochow and
14 Changchow in Kiangsu Province and sought to maintain
15 peace and order in the Shanghai area.

16 "However, the Chinese Army, with Nanking as its
17 base, kept up with the large-scale battles which were then
18 in progress in North China and concentrated a great
19 number of troops from other districts to prepare for
20 attack against Japan in Kiangsu and Chekiang provinces.
21 The situation grew so bad that unless the Chinese base of
22 operations around Nanking was captured, it was impossible
23 to maintain peace and order and to protect our interests
24 in Central China. Consequently, Japan decided to capture
25 Nanking to restore public peace in the southern part of

1 Chingsu province, and the Imperial Headquarters ordered
2 our Central China Area Army to seize Nanking in coopera-
3 tion with the Navy. Our army thus commenced a quick
4 offensive operation against Nanking in spite of many
5 difficulties.

6 "5. Measures taken at the time of capture of
7 Nanking and the so-called cases of plunder and outrage
8 in Nanking.

9 "In accordance with the standing policy of our
10 government to localize the area of battle as much as
11 possible, and because of my long years of idea to bring
12 about cooperation and prosperity between Japan and China,
13 I took, in capturing Nanking, every precaution not to
14 make this campaign a cause of struggle for the entire
15 Chinese population. As explained before, my experience
16 in the fighting around Shanghai made me feel the necessity
17 of this more than ever. Regarding the various precaution-
18 ary measures I took at that time to maintain military
19 discipline and morale, and my other actions to help to
20 enforce discipline, I will not state again since the
21 witness NAKAYAMA, Yasuto already testified thereof in
22 detail.

23 "Notwithstanding my scrupulous care in capturing
24 Nanking, in the busy and unsettled condition at that time,
25 it may have been some excited young officers and men

1 committed unpleasant outrages, and it was to my great
2 regret and sorrow that I, afterward, heard rumors of
3 such misconduct. At the time of capturing Nanking I
4 was sick in bed at Soochow, some 140 miles away, and
5 I was unaware of any such outrages committed contrary
6 to my orders and received no reports thereof. After
7 entering Nanking on 17 December, I heard about it for
8 the first time, from the Commander of the Kempei unit,
9 and I, at once, ordered every unit to investigate
10 thoroughly and to punish the guilty men.

11 "However, it is a well-known fact that, in war
12 time, the Chinese troops and some outlaws almost always
13 commit acts of violence and looting by taking advantage
14 of the confusion. Not a few of those crimes were
15 committed by the Chinese troops and peoples when Nanking
16 fell, so to hold the Japanese officers and men responsible
17 for all the crimes is to distort the facts.

18 "A ceremony for entering Nanking was held on
19 17 December, and on the following day a memorial service
20 for the dead was quietly held at the airfield. On the
21 19th I inspected through the city accompanied by 15 or
22 16 officers and men, but fires had already been put out
23 and the streets were calm, with many refugees returning
24 to their homes. We saw only about twenty dead Chinese
25 troops lying on the streets and the order within the

MATSUI

DIRECT

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1 city was generally being restored. But the water works,
2 electric facilities and important governmental and
3 municipal buildings had been destroyed by the Chinese
4 troops before the entry of the Japanese Army and there
5 were comparatively few fires, the number of fire-destroyed
6 houses being approximately 50 or 60.

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1 "In short, during my stay in Shanghai after
2 the fall of Nanking until February, 1938, the only thing
3 I heard was a rumor towards the end of December 1937 to
4 the effect that there were some cases of illegal acts
5 in Nanking but I had received no official report about
6 such fact. I hereby definitely state that the U.S.
7 Army's broadcast in Tokyo after the war's end concerning
8 the alleged large-scale massacre and outrages has been
9 asserted by the prosecution in this Court was the first
10 time that I ever heard anything about it. After I heard
11 the broadcast I tried to investigate the activities of
12 our Army subsequent to our capture of Nanking, however,
13 the responsible persons at that time were already dead
14 or detained and punished overseas, while the documents
15 concerned were destroyed by fire. It is impossible to
16 go back ten years and investigate and study the true
17 situation in detail.

18 "It is possible that a great number of Chinese
19 soldiers and civilians were killed or wounded by bombs,
20 artillery shells and rifle bullets during the Nanking
21 campaign, but I do believe that there is not a bit of
22 truth in the prosecution's charge that there were cases
23 of planned massacre in the fight of Nanking. Nothing
24 can be farther from the truth than the slander that
25 the staff of the Japanese Army ordered or tolerated the

1 above deeds.

2 "In view of the situation at that time, it is
3 needless to say that I did everything in my power as
4 commander of the Central China Area Army to take
5 measures to prevent the occurrence of such unfortunate
6 incidents to give severe punishment to the guilty and to
7 compensate for the damages.

8 "However, it is to my great regret that the
9 result was not perfect due to the hectic condition of
10 wartime. (The contributing factors were that I was sick
11 in bed at Suchow when Nanking was captured; that I
12 stayed only five days in Nanking before leaving the
13 city; that as the Commander of the Central China Area
14 Army I had no direct authority over the officers and
15 men in the field, as explained before).

16 "6. My actions after Nanking was captured:

17 "Staying for five days after entering Nanking
18 on 17th December, I left on 21st December for Shanghai
19 by water because of the necessity of commanding the Army
20 in operation in the Chikiang area and after that I stayed
21 in Shanghai. Here I was very busy in disposing the
22 aftermath of war, such as negotiating with the local
23 Chinese officials with regard to the maintenance of
24 general peace and order and taking relief measures for
25 the people; and getting in contact with the commanders

1 above deeds.

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3 needless to say that I did everything in my power as
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22 aftermath of war, such as negotiating with the local
23 Chinese officials with regard to the maintenance of
24 general peace and order and taking relief measures for
25 the people; and getting in contact with the commanders

1 of the British and American navies and the other foreign
2 military and civilian officials in the area to look
3 after whatever incidents that occurred during the
4 campaign. This was because the Central Chinese Area
5 Army, after the complete occupation of Nanking and after
6 my return to Shanghai, was ordered by the central author-
7 ity to concentrate its efforts in securing the entire
8 areas south of the Yangtze and East of Nanking, especial-
9 ly the neighborhood of Shanghai.

10 "Incidentally, when I heard the rumor of out-
11 rages in Nanking after returning to Shanghai, I issued
12 a warning again to the officers and men then staying
13 in Nanking by despatching especially one of my subordinate
14 staff officers at the end of 1937 and ordered a thorough
15 investigation of the rumor and quick punishment for any-
16 body found to be guilty. However, up to the time of my
17 leaving the post, I received no authentic reports con-
18 cerning the above matters.

19 "Besides the maintenance of public peace and
20 order in the above-mentioned occupied areas, I felt the
21 necessity of negotiations for a general peace movement
22 with the Government of Chiang Kai-shek. I urged the
23 Chinese key officials in the neighborhood of Shanghai
24 to make efforts in this connection and especially
25 despatched envoys to Foochow and Canton and had them

1 communicate with Chen yi and Sung Tzu-wen. However,
2 simultaneously with the reorganization of the Central
3 Chinese Area Army in the latter part of February, I was
4 dismissed from the post of the Army Commander and
5 returned to the home. I am still regretting the fact
6 that I had missed the chance of continuing my efforts
7 for attaining the above object.

8 "7. The fact that a meeting was held among
9 attaches in Berlin in 1929:

10 "When I was dismissed from the post of Chief
11 of 2nd Section, General Staff Headquarters in December,
12 1928, I thought of making a trip to various countries
13 in Asia and in Europe, and in January, 1929, I started
14 on my tour of inspection of French Indo-China, Siam,
15 British Malaya, India and other European countries.
16 Just when I was passing Berlin in April, 1929, military
17 attaches stationed in various nations in Europe, taking
18 the opportunity of my arrival there, got together with
19 the object of renewing friendship. It was not an official
20 conference and there was no particular purpose.

21 "It was presided over by Major General OMURA,
22 Yurin, attache in Berlin, and the meeting was of social
23 nature. It was not a conference called and sponsored by
24 me. Moreover, as I mentioned before, at that time I had
25 already been dismissed from the post of Chief of 2nd

1 Section, General Staff Headquarters and, as a mere
2 lieutenant general, I had no official power to sponsor
3 a conference among the attaches of various embassies.
4 In short, it was only a social meeting and nothing was
5 decided upon with regard to the problems of the time,
6 and no particular items were on the agenda. It was
7 merely an informal, round-table discussion at which the
8 attaches expressed their opinions on the situations in
9 Europe. Accordingly, no minutes were taken and I had
10 made no report thereof to my superior after my return
11 to Japan. At the meeting I was seated in the seat of
12 honor only as a visitor who came to that part of the
13 world from afar. On this point, the contents of the
14 prosecution exhibit No. 733 is contradictory to the state-
15 ment I made to the prosecution. I find what seem to be
16 mistranslations in the records of investigation prepared
17 by the prosecution.

18 "8. The relation between my appointment as
19 a member of the Supreme War Council or a cabinet advisor
20 and the foreign policies of the Government:

21 "A supreme war councillor is mainly given a
22 temporary mission regarding the education and training
23 within the Army and he is not to meddle in anything at
24 any time, especially in foreign affairs.

25 "A cabinet advisor was appointed mainly as a

1 consultative agency because of the political situations
2 in Japan and abroad in those days, and had no substantial
3 authority. Such being the case, while I was in these
4 positions, my opinion was never taken up concerning the
5 China and Asiatic problems, etc., and I myself never
6 offered my own opinion.

7 "9. The object of the Greater Asia Association
8 which was established by me and the account of its
9 activities, especially the true picture of the Asia
10 movements for which I negotiated with Mr. Chin Te-chun
11 in Peipin:

12 "For many years, it had been my regret to see
13 Asia invaded by Europeans and Americans, and I had been
14 praying for the reconstruction of Asia by the people
15 of Asia. In view of a marked alienation between Japan
16 and China, since the Manchurian Incident, it was my
17 desire that the peoples of these two nations look at the
18 whole situation instead of being sentimental about small
19 matters and misunderstanding each other. So, in order
20 to give impetus to the movement of the 'Greater Asianism'
21 among interested persons in Japan and China, I established
22 the Greater Asia Association together with men of the
23 same views in 1933. This was not a political organiza-
24 tion but it was a kind of an organization to study
25 social culture. Its object was to reconstruct Asia by

1 sreading the principle of Wang Tao-- the idea which
2 has been transmitted for thousands of years from
3 generation to generation in China and Japan, by bring-
4 ing about a state of co-existence and co-prosperity
5 for the entire Asiatic people; and finally by contri-
6 buting to the humanity as a whole in its peaceful
7 development. (Defense document No. 2234). The number
8 of Japanese members of the Association had reached more
9 than two thousand but, due to the lack of funds, it
10 was unable to do anything special.

11 "In 1935 and 1936 I personally saw China,
12 travelling south and north, and endeavored for the
13 accomplishment of this movement, planning for a campaign
14 with my old friends in China. But for years in China the
15 'Greater Asianism' had already been widely advocated by
16 Sun Wen, the former President of the Chinese Republic.
17 So, China wanted to propagandize the 'Greater Asianism'
18 by herself. Hoping that her movement and ours in Japan
19 would be in line with each other in reaching the common
20 objective, I talked with the interested men in Peipin
21 and Tientsin in the fall of 1935, and in the spring of
22 1936 there was established 'the Chinese Greater Asia
23 Association' among the learned in North China. It is
24 true that in this regard I persuaded Mr. Chin Te-chun,
25 then the mayor of Peipin. However, the contents of the

1 affidavit presented in this Court the other day by
2 Mr. Chin do not agree with his words and statements at
3 that time (defense document No. 2234). Besides, our claim
4 was not necessarily to drive out Europeans and Americans
5 from Asia. What I advocated was that the Europeans and
6 Americans, who were our friends and wanted to cooperate
7 with us in bringing about happiness to the Asiatic
8 people, should join us in our idea of co-prosperity
9 and co-existence. My statements issued in those days
10 will verify this fact. (Defense documents No. 2500,
11 2501, 2628.)

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11 2501, 2628.)

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1 "10. The object and activities of the Dai
2 Nippon Asia Development League and the Dai Nippon Asia
3 Development Association.

4 "The Dai Nippon Asia Development League was
5 established at the time of the First KONOYE Cabinet,
6 combining then numerous organizations engaged in
7 developing Asia. The Imperial Rule Assistance Associa-
8 tion was just organized also, and the league was organ-
9 ized into and came under the supervision of this asso-
10 ciation in order to act in accordance with the govern-
11 ment's foreign policy. However, due to the frequent
12 changes of cabinets caused by the development of our
13 domestic and foreign policies, the Asia Development
14 League was constantly compelled to reorganize itself
15 and change the sphere of activities. All it could
16 do and did was to get in contact with various cultural
17 organizations in China and Manchukuo with a view to
18 asking their cooperation. Besides that nothing con-
19 crete was accomplished. The reason why I was in the
20 position of vice-president or adviser of the League
21 from the beginning of its establishment was due to my
22 past relation with the Greater Asia Association ever
23 since it came into existence.

24 "as the result of the frequent changes in the
25 organization of the above-mentioned Asia Development

1 League, it was reorganized and changed its name as Dai
2 Nippon Asia Development Association at the time of
3 KOISO Cabinet in 1944. As to its organization and
4 activities, it was placed under the supervision and
5 guidance of the government, but the body itself was of
6 cultural nature, composed of interested civilians in
7 the truest sense of the term. With the progress of the
8 Pacific War, however, the inconvenience in communica-
9 tions and the acute situation at home and abroad pre-
10 vented it from starting any concrete movements, and the
11 result was that it was only able to publish its organ
12 and give some guidance for the students and citizens
13 from various countries in Asia residing in Japan.
14 Because of my past connection with this association, I
15 took charge of its management, but the war came to an
16 end before long, and I was obliged to dissolve it with-
17 out making any great contribution to it.

18 "11. The Ladybird Incident and other foreign
19 affairs.

20 "About the 12th December 1937 I received a
21 report that some artillery unit belonging to the 10th
22 Army bombarded a British gunboat in the neighborhood
23 of Wuhu. I ordered my Chief of Staff to investigate
24 it immediately. According to his report, about the
25 11th of December the Chinese troops were retreating on

1 the Yangtze River by large and small ships, and many of
2 their ships were deceitfully displaying foreign flags.
3 Hereupon, Lieutenant General YANAGAWA, Commander of the
4 10th Army, ordered firing upon these ships with the
5 retreating Chinese soldiers on board. So when Colonel
6 HASHIMOTO located several ships sailing with the Chi-
7 nese soldiers in the morning of 12th on the fog-
8 covered Yangtze River, he opened fire. The Ladybird
9 happened to be among this group of ships.

10 "Accordingly I immediately ordered the Com-
11 mander of the 10th Army to tender his apology to the
12 British Naval Commander-in-Chief there. I, myself,
13 returned to Shanghai from Nanking, called on Admiral
14 Little of the British Navy without delay and apologized
15 to him for the incident. He fully understood my in-
16 tention and promised me that he would transmit my
17 apology to his government.

18 "The bombing of the U.S.S. Panay was executed
19 by a Navy plane by mistake, and the plane was not under
20 my command and I had nothing to do with it at that time.
21 However, since it was an unfortunate incident caused
22 by the Japanese forces, I went to Admiral Yarnell,
23 the U.S. Navy Commander, without delay upon my return
24 to Shanghai and expressed my regret to him, thus ob-
25 taining his understanding about the above event.

1 "I protected peaceful people and respected
2 the rights and interests of foreign powers was as
3 mentioned before. After completing somehow the Shang-
4 hai and Nanking battles I visited Admiral Little of
5 the British Navy and Admiral Yarnell of the U. S. Navy,
6 and tried to promote a better understanding between them
7 and myself. I expressed my regret to them concerning
8 unfortunate losses suffered by England and America
9 and their governments and peoples. I also met the
10 French Ambassador and the French Navy Commander-in-
11 Chief and exchanged opinions about what to do with
12 the French Concession and Nanshi, and we reached an
13 understanding.

14 "I expressed my profound gratitude to Reverend
15 Jackinough who did a great deal in giving protection
16 to the residents in Nanshi, and contributed ten thou-
17 sand yen to him for his work. In this way I tried to
18 alleviate the bitter effect of war.

19 "12. Casualties on both sides at the front
20 in the southern area of the Yangtze River, and the
21 tribute paid to the dead.

22 "The number of the Japanese officers and men
23 who were killed or died from diseases during the time
24 of the fighting at Shanghai, Nanking, etc., reached
25 more than 21,000, and together with the sick and

1 wounded the number of casualties amounted to more than
2 80,000.

3 "I deny that there were many cases of massacre
4 as maintained by the Chinese witnesses, but I think
5 there were many victims of Chinese soldiers and people
6 during that period, and among them there were not a
7 few who suffered from cholera, typhoid fever, dysen-
8 tery, etc. prevailing at Shanghai and in the Chinese
9 Army at that time. Actually the number of Japanese
10 officers and men contracted these diseases reached
11 several hundred, and more than one hundred soldiers
12 died of them.

13 "To my way of thinking, when the two races
14 of Chinese and Japanese ought to have cooperated with
15 each other as brethren in the nature of things, it was
16 indeed a calamity that they should have struggled
17 against each other at the cost of a tremendous number
18 of lives, and I cannot help but feel profound regret
19 for this sad event.

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21 "It was my fervent hope that the incident
22 would give an opportunity for the two races to live
23 in harmony, and that those who sacrificed their lives
24 would serve as a cornerstone of new Asia.

25 "After returning home I built a temple near
my temporary abode at Mt. Izu, Atami, and enshrined

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1 the souls of these victims of the two countries and
2 prayed for the repose of their souls. Moreover, I
3 built the statue of Kwannon, the Goddess of Mercy,
4 in the precincts of the temple with the soil brought
5 from the blood-covered fields of battle in the southern
6 area of the Yangtze River. And with the help of her
7 great virtues, I have been day and night offering,
8 like other people who have faith in this Kwannon,
9 prayer's for the repose of all the souls of friends
10 and foes, for the light of East Asia, and finally for
11 the coming of the peace of the world.

12 "On this 14th day of October, 1947."

13 Signed by "MATSUI, Iwane."

14 You may cross-examine.

15 ACTING PRESIDENT: Brigadier Nolan.

16 BRIGADIER NOLAN: May it please the Tribunal.

17 CROSS-EXAMINATION

18 BY BRIGADIER NOLAN:

19 Q General MATSUI, I propose to ask you some
20 questions arising out of the statements contained in
21 your affidavit, exhibit 3498, taking up the matters
22 in the order in which they appear in the affidavit
23 itself. Have you in your possession now the original
24 of your affidavit in Japanese?

25 A I do not.

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A I do not.

1 BRIGADIER NOLAN: May the witness be sup-
2 plied, please, with it?

3 (Whereupon, a document was handed
4 to the witness.)

5 Q Now, in the first paragraph on page 2 of the
6 English translation of your affidavit, it is stated
7 that the Japanese Government decided on the 15th of
8 August to hurriedly dispatch to Shanghai an expedition-
9 ary force, and that this expeditionary force consisted
10 of the 3d and the 11th Divisions less one brigade of
11 the latter division.

12 Before you left Tokyo to take command of this
13 Shanghai Expeditionary Force did you ask for more
14 divisions to be sent with you?

15 A I desired that the divisions -- the number
16 of divisions be increased.

17 Q That they be increased to five in number?

18 A Yes.

19 Q Why did you want them increased to five?

20 A Since about that time reports were coming
21 into Japan that the number of Chinese troops in Shang-
22 hai and vicinity was about 100,000, it was believed
23 it would be appropriate if a strength of five divi-
24 sions were sent in order to meet the situation.

25 Q As a matter of fact, the Shanghai Expeditionary

1 Force was brought up to a strength of five divisions,
2 wasn't it?

3 A At first, as I have stated in my affidavit,
4 there were only one and a half divisions. But in
5 order to meet the demands of the situation in Shanghai
6 and vicinity, troops were gradually increased to the
7 point that the Shanghai Expeditionary Force alone
8 consisted of five divisions, and the YANAGAWA Army
9 of three divisions, bringing the total to eight divi-
10 sions.

11 Q When did the Shanghai Expeditionary Force
12 arrive at the point where it contained five divisions?

13 A During the first part of October it reached
14 five divisions.

15 Q And the 10th Army landed in China on or about
16 the 5th day of November 1937?

17 A Yes.

18 Q And that army, the 10th, was under the command
19 of General YANAGAWA?

20 A Yes.

21 ACTING PRESIDENT: We will now adjourn until
22 1:30.

23 (Whereupon, at 1200, a recess
24 was taken.)
25

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Brigadier Nolan.

I W A N E M A T S U I, an accused, resumed the stand
and testified through Japanese interpreters as
follows:

CROSS-EXAMINATION

BY BRIGADIER NOLAN (Continued):

Q General MATSUI, in your affidavit, in the
English translation, at page 3, second paragraph, you
make reference to the reason for your appointment as
Commander-in-Chief of the Shanghai Expeditionary Force.
During your military career you had spent approximately
twelve years in China, had you not?

A Yes.

Q And what were your appointments during that
time? Tell me quite briefly, please.

A In 1907 I was sent to Peking as Assistant
Military Attache. Approximately three years later I
was appointed military officer stationed in Shanghai
and went to Shanghai. After serving about three years
in Shanghai I returned to Japan for the time being.

1 In 1914 I went to China again and stayed there for
2 about four and one-half years -- correction -- 1915.
3 That was the time when Yuan Shih-kai had become the
4 Emperor, and during this time I cooperated with Sun
5 Yat-sen and other members of the Kuomintang in trying
6 to overthrow Yuan Shih-kai.

7 Q And during this four and one-half year period
8 what was your appointment?

9 A Military Attache in Shanghai -- military agent.

10 Q Military agent, General MATSUI?

11 A Yes.

12 Q Agent for whom?

13 A Military agent was a term then used for a
14 Japanese military officer stationed in Shanghai.

15 Q Now, during this period I take it you visited
16 Nanking?

17 A I went there --

18 ACTING PRESIDENT: May I interrupt you,
19 Brigadier?

20 What is the difference between a military
21 attache and military agent, in their duties?

22 THE WITNESS: A military attache acts in
23 conjunction with the legation or embassy to which he
24 is attached, but I, as military agent in Shanghai, was
25 under the direct control of the general staff and

1 worked independently.

2 BY BRIGADIER NOLAN (Continued):

3 Q And what were your duties?

4 A My duty was that of a military agent in
5 Shanghai.

6 Q And amongst other of your duties was it to
7 examine the terrain in the vicinity of Shanghai and
8 Nanking -- the topography?

9 A Yes, that was one of them.

10 Q And wasn't that the reason why, with your
11 knowledge of the country, you were appointed commander-
12 in-Chief in 1937?

13 A I don't think my knowledge of the topography
14 of the area was of great importance. I believe that
15 the primal consideration in my appointment, in appoint-
16 ing me commander, was my friendship for leaders of the
17 Kuomintang with whom I had become acquainted during
18 my stay in Shanghai and Nanking.

19 Q Well, your knowledge of the area came in
20 very useful later on, did it not?

21 A There may have been occasions on which it
22 was of service.

23 Q Now, you say on the same page of your affi-
24 davit that the intention was to settle the incident
25 locally as soon as possible and to prevent the armed

1 worked independently.

2 BY BRIGADIER NOLAN (Continued):

3 Q And what were your duties?

4 A My duty was that of a military agent in
5 Shanghai.

6 Q And amongst other of your duties was it to
7 examine the terrain in the vicinity of Shanghai and
8 Nanking -- the topography?

9 A Yes, that was one of them.

10 Q And wasn't that the reason why, with your
11 knowledge of the country, you were appointed commander-
12 in-Chief in 1937?

13 A I don't think my knowledge of the topography
14 of the area was of great importance. I believe that
15 the primal consideration in my appointment, in appoint-
16 ing me commander, was my friendship for leaders of the
17 Kuomintang with whom I had become acquainted during
18 my stay in Shanghai and Nanking.

19 Q Well, your knowledge of the area came in
20 very useful later on, did it not?

21 A There may have been occasions on which it
22 was of service.

23 Q Now, you say on the same page of your affi-
24 davit that the intention was to settle the incident
25 locally as soon as possible and to prevent the armed

1 conflict from spreading. I suggest to you that before
2 you left Tokyo in 1937 you made known your desire to
3 push on to Nanking after the capture of Shanghai?
4

5 A I did have such thoughts at the time.

6 Q At the time you left Tokyo?

7 A Yes.
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1 Q Now, this "war of love" that you speak of at
2 the foot of page 3 of the affidavit, what response did
3 the Chinese make to these overtures of yours?

4 THE MONITOR: Will the court reporter read
5 the question, please?

6 BRIGADIER NOLAN: If I may, I will redraw the
7 question.

8 Q Did the Chinese resist your armies at every
9 turn?

10 A Yes. But "resist" isn't the word. In the
11 very beginning it was the Chinese that attacked us.
12 They took the offensive.

13 Q Well, when you took the offensive, they resisted
14 your offensive, did they not?

15 A Yes, of course.

16 Q Now, on page 4 you speak of the expeditionary
17 force being a means of bringing about friendly relations
18 between the two nations. Now, at this time, which
19 was late in 1937, you were not in favor of continuing
20 negotiations with General Chiang Kai-shek, were you?

21 A On one hand, our Japanese forces attacked the
22 Chinese who threatened us, and on the other hand we
23 conducted behind-the-scenes negotiations with Chiang
24 and his regime for the conclusion of peace and conducted
25 peace movements.

1 Q Did you advise your government to have nothing
2 to do with Chiang Kai-shek at this time?

3 A No.

4 Q Did you express strong opinions to that effect?

5 A Since my thoughts were as I have just told
6 you, to open peaceful negotiations with Chiang Kai-shek
7 as quickly as possible, I did not voice such opinions.

8 Q Then your theory was to get on with the war
9 in China as quickly as possible?

10 A My thoughts were to crush as quickly as possible
11 the Chinese force opposed to us in the Shanghai-Nanking
12 area and immediately to open peace negotiations.

13 Q After they were crushed?

14 A Yes.

15 Q Now, on page 6 of the English of your affidavit,
16 General MATSUI, seven lines from the bottom, you make
17 a very general statement of being "aware of instances
18 where the troops and nationals of England, America,
19 France, et cetera, in sympathy with the Chinese troops,
20 intentionally gave assistance to them and obstructed
21 our military movements in many ways."

22 What countries constitute the "et cetera" in
23 that statement?

24 A Almost all of the countries of Europe and
25 America who were in or near Shanghai at the time were

1 in sympathy with the Chinese. The country which was
2 directly aiding the Chinese was Germany. There were
3 many German advisers to the Chinese forces.

4 Q Did any of these countries which you have
5 mentioned make war upon Japan?

6 A No country made war on Japan.

7 Q Your point is that they were out of sympathy
8 with Japan's expedition into China?

9 A They were not only out of sympathy with the
10 Japanese side, but were actually giving help to the
11 Chinese side. Spiritual help, moral help goes without
12 saying; they even gave actual material help.

13 Q Now, what did they give?

14 A If I give you all the facts, they will be
15 many in number. But to give one or two examples,
16 Great Britain, for instance, was furnishing the Chinese
17 troops in the vicinity of Shanghai with food and supply,
18 equipment and arms.

19 When the Japanese forces were attacking the
20 Chinese battery at Woosung, a French warship intentionall
21 went through the Japanese lines and hindered the Japanese
22 attack on Woosung.

23 Q Where was the French warship going, or do you
24 know?

25 A It was lying outside Shanghai Harbor. But

1 when the Japanese began attacking Woosung battery,
2 it came out and went up the Yangtze River.

3 Q Now, in the fourth numbered paragraph of your
4 affidavit, on page 7, you refer to the organization of
5 the Central China Army.
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1 ACTING PRESIDENT: You can hardly hear
2 that over the I.B.M. I suggest you repeat your
3 question, Brigadier.

4 Q I was saying that on page 7 of your
5 affidavit in the section numbered 4, you make
6 reference to the organization of the Central
7 China Army.

8 ACTING PRESIDENT: That should be, "Central
9 Area Army."

10 Q (Continuing) I beg your pardon.

11 And, on that page, you say, and I read
12 it to you, "However, since it," that is, the Head-
13 quarters, "had only seven staff officers, its duty
14 was limited to giving operational instructions to
15 the two headquarters and had no authority to dis-
16 pose the entire intendance and medical matters of
17 the army in general." Now, by saying that it had
18 no authority to dispose the entire intendance and
19 medical matters, you mean, I take it, that it had
20 no authority over such matters as rations, quarters,
21 and pay, and medical services.

22 A That is what I meant.

23 Q And, when you say, in the following para-
24 graph at the top of page 8, that your relation
25 with the officers and men in the field, with regard

1 to the command and supervision, was entirely indirect,
2 by that you mean that you exercised command through
3 the commanders of the Shanghai Expeditionary Force
4 and the 10th Army.

5 A Yes.

6 Q Because it is a fact that the 10th Army
7 and the Shanghai Expeditionary Force were under your
8 command.

9 A It is a fact that they were under my com-
10 mand.

11 Q Was the answer "yes"?

12 THE MONITOR: Yes.

13 Q On page 9 of your affidavit, about the
14 middle of the page, you say that some excited young
15 officers and men may have committed unpleasant out-
16 rages in Nanking.

17 Was there an answer?

18 A Yes, I said so. I did not see it with my
19 own eyes, but I knew of it from reports.

20 Q Now, what were these unpleasant outrages?

21 A Rape, looting, forceful seizure of materials.

22 Q And murder?

23 A That, also.

24 Q And, from whom did you receive these reports?

25 A From the gendarmery.

1 Q Now, you explained to us that at the time
2 of capturing Nanking you were ill in bed at Soochow,
3 140 miles away, and were unaware of the outrages
4 committed. How did you hear that Nanking had
5 fallen.

6 A From reports.

7 Q From whom?

8 A From the Commander of the Army.

9 Q And, who was he?

10 A From the reports of the Commander of the
11 Shanghai Expeditionary Force, who was then General
12 Prince ASAKA, and from the Commander of the 10th
13 Army, Lieutenant General YANAGAWA.

14 Q The fact is that these two Army Commanders
15 kept you in close touch with the progress of the
16 operations, did they not?

17 A Yes.

18 Q And, you tell us that you heard about the
19 outrages after entering Nanking on the 17th of
20 December from the Commander of the Kempei Unit.
21 Did you receive reports from any other persons after
22 you entered Nanking?
23

24 A When I went to the Japanese Consulate, I
25 heard reports -- stories of similar nature from the
consul.

1 Q Why didn't you put that in your affidavit?

2 A This is because I did not hear it as an
3 official report. I merely heard stories from him
4 about this in the course of our conversation.

5 Q And, did he tell you that complaints had
6 been lodged by the foreign residents with that
7 Japanese Consulate in Nanking?

8 A That I did not hear.

9 Q What did you hear?
10

11 A I heard from the Japanese Consul at Nanking
12 that among the officers and men of the Japanese
13 Army, which had entered Nanking, were some who had
14 committed outrages.

15 Q Did he mention any particular units or
16 divisions or armies?

17 A The story -- our conversation did not go
18 into details such as those.

19 Q When did the conversation take place?

20 A Well, I believe it was around the 18th or
21 19th of November -- of December.

22 Q And, did you also receive reports from your
23 Army Commanders and your Divisional Commanders, when
24 you were in Nanking?

25 A What kind of reports?

Q Reports of outrages which had been committed

1 upon the Chinese population.

2 A No, I did not receive any such reports.

3 Q You were in this court when the witness
4 NAKAYAMA gave evidence, and he was an intelligence
5 officer of the Central China Area Army.

6 A Yes.

7 Q And, you heard him say that you received
8 additional reports from Commanders and Divisional
9 Commanders under your command, as well as from
10 diplomatic organs. Was he wrong when he said that?

11 A I don't think NAKAYAMA said what you said
12 that he said. Since I was the Commander of the Army,
13 I received reports from the Commanders of the two
14 Armies, but I did not receive reports from
15 Divisional Commanders as they were not my direct
16 subordinates.

17 Q Then, you did receive reports from the
18 Commanders of the two Armies in Nanking immediately
19 after your entry into the city.

20 A Yes.

21 Q You didn't put that in your affidavit
22 either. Was it because it was a casual conversation?

23 A No, the reports that I received from the
24 Commanders of the Armies were in regard to the general
25 war situation. I did not receive any reports from
them on outrages.

1 Q Who was your Chief of Staff at this time,
2 the 18th or 19th of December?

3 A My Chief of Staff at the time was a man who
4 is already dead and for the moment I cannot recall
5 his name. He was a major-general.

6 Q He was the officer who succeeded Lieutenant-
7 General IINUMA.

8 A IINUMA was the Chief of Staff of the Area
9 Army and the Chief of Staff of the Shanghai Expedition-
10 ary Force was newly appointed by the General Staff
11 and arrived direct.

12 Q Well, I understood from the witness IINUMA
13 that he had relinquished his post around or about the
14 time of the capture of Nanking. Is that so?

15 A No, up to the capture of Nanking IINUMA was
16 Chief of Staff of the Expeditionary Force.

17 Q Yes.

18 A And later in February of the following year
19 when the Army was reorganized IINUMA was relieved
20 and returned to Japan.

21 Q Well, whoever he was and whatever his name
22 may have been, did your Chief of Staff immediately
23 after the fall of Nanking tell you of outrages committed
24 by troops under your command?

25 A He did report to me, saying that this was a

1 report he had received from the gendarmery, from the
2 Kempei.

3 Q Was his name TSUKADA?

4 A Yes.

5 Q Now, we were told in this Court by the
6 witness HIDAHA at page 21,453 of the record that
7 reports of atrocities from foreign residents in
8 Nanking were sent to the Foreign Office in Tokyo
9 and to the Army in Nanking. Where would such reports
10 go if they were sent to the Army in Nanking?

11 A Such reports should go to the Headquarters
12 of the Shanghai Expeditionary Force; that is, to the
13 Headquarters of General Prince ASAKA.

14 Q Now, when the witness NAKAYAMA at page
15 21, 927 of the record says that he thought that the
16 reports of the foreign residents were reported to
17 the Special Service Department of the Shanghai
18 Expeditionary Force, where would that Special Service
19 Department be in December, subsequent to the 17th day
20 of that month, 1937?

21 A The Headquarters were in Shanghai, but I
22 believe that a part of it had gone to Nanking.

23 Q And the Headquarters of the Shanghai Expeditionary
24 Force were in Nanking?

25 A The Headquarters of the Shanghai Expeditionary

1 Force were inside the walls of Nanking.

2 Q Where were the Headquarters of the 10th
3 Army?

4 A For a few -- one or two days I believe it
5 was in Nanking but it was moved to Hangchow in Chekiang.

6 Q When was it moved?

7 A I don't recall the exact date. I believe
8 it was around the 20th.

9 Q Now, you tell us at the bottom of page 9 of
10 your affidavit that hearing about these atrocities
11 you at once ordered every unit to investigate thoroughly
12 and to punish the guilty men. Did they report back
13 to you the result of the investigations which you had
14 ordered?

15 A As I have been telling you, each unit, specific
16 unit, would not report to me directly. If I received
17 any reports it would be from the commanders of the
18 two armies.

19 Q I am perfectly aware of that. And what
20 reports did you receive from the commanders of these
21 two armies as a result of the investigations you had
22 ordered?

23 A Up to my departure from Shenghai in February
24 of the following year I had received no reports on
25 these investigations.

1
2 Q Did you ask that they should be reported
3 to you?

4 A Yes.

5 Q And what reply did you receive?

6 A The reply was that "We are now in the midst
7 of investigations. As soon as investigations are
8 completed we shall reply."

9 Q And you had received no reply up until the
10 time you left China in the month of February, 1938?

11 A That is so.

12 Q Did the General Staff in Tokyo communicate
13 with you regarding the conduct of your troops at
14 Nanking?

15 A In regard to the movement of the troops?

16 Q In regard to the behavior of the troops.

17 A I am not aware of any communications from
18 the General Staff addressed to me on that point.

19 Q Are you aware of any communications from any
20 one in Tokyo addressed to any one that came to your
21 knowledge in China?

22 A I know nothing at all about that. I do
23 remember, however, that towards the end of January,
24 1938, when Major-General HOLMA was sent to my head-
25 quarters from the General Staff, he said that the
authorities in Tokyo were very worried about reports

1 of outrages committed by Japanese soldiers in China.

2 Q But that was late in January. I am talking
3 now about December and early in January. Did you
4 receive any complaints from any government official,
5 authority, or military authority in Tokyo regarding
6 the conduct of your troops in Nanking?

7 A I heard nothing.

8 Q Was there a communication sent to Prince
9 ASAKA, the Commander of the Shanghai Expeditionary
10 Force?
11

12 A From where?

13 Q From Japan.

14 A I did not hear anything about that either.
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1 Q Did you hear about any complaint sent to
2 him from any place whatsoever?

3 A No. I did not.

4 Q Now, after the ceremony on the 17th of
5 December you called your officers together. What
6 officers were these?

7 A That wasn't on the 17th but on the 18th.
8 On the 18th I called together all Japanese units
9 stationed in Nanking and held a memorial service.
10 My intention was to assemble as many officers of the
11 various armies and divisions gathered there as
12 possible, and therefore I ordered all such officers
13 to assemble; so I believe that at least all officers
14 above the rank of regimental commander were there.

15 Q And why were they assembled?

16 A That was because on the previous 17th I had
17 received, through my Chief of Staff, the report of the
18 command of the gendarmery in regard to outrages com-
19 mitted by the Japanese soldiers, and I gathered these
20 officers together for the purpose of giving them
21 instructions directly.

22 Q How long did the atrocities go on in Nanking,
23 General MATSUI? Do you know?

24 A I don't know. I think most of the outrages
25 were committed immediately after our entry into Nan-

king.

1 Q You heard the evidence of the witness Magee
2 at page 3922 and of the witness Rates at page 2644
3 of the record in which they said they went on for
4 about six weeks after the fall of the city. Did you
5 know about that?

6 A I heard their testimony given before this
7 Tribunal, but I don't believe it.

8 Q On page 10 of your affidavit you say that
9 not a few of the crimes in Nanking were committed by
10 the Chinese troops and people when the city fell.
11 How do you know that?

12 A I knew of that from receiving reports made
13 by Staff Officer NAKAYAMA and Counselor HIDAKA, whom
14 I had sent to Nanking to investigate.

15 Q And when did you receive the report of that
16 investigation?

17 A I don't remember when; I believe it was
18 around the middle of January.

19 Q And did they in their report mention any
20 crimes committed by Japanese soldiers?

21 A Yes.

22 Q Well, tell me what they reported, please.

23 A It wasn't a written report. They reported
24 to me orally, so I don't remember the contents of
25 that report too well.

Q Well, tell me what you do remember about it.

1 A Since they went to Nanking to investigate
2 after the incidents had already broken out, and since
3 they did not catch any person actually in the act, it
4 was a very difficult thing to investigate and their
5 investigations were not exact -- and I was not able to
6 get an exact report.

7 Q Did you send them back to make a further and
8 better report?

9 A At the time it was already after the incidents
10 in question had occurred, and it was really almost im-
11 possible for the Chief of Staff and for the Foreign
12 Office authorities to make any exact investigations,
13 and the only method left was to order the commanders
14 of the various units to carry on investigations in re-
15 gard to their respective units, but such reports took
16 quite some time to assemble and collate.

17 Q And you did not have them when you left China
18 for Japan?

19 A That is so.

20 Q The other day the witness OKADA, at page
21 32,747 of the record, said that he had had a conversa-
22 tion with you in the Metropole Hotel in Nanking on the
23 18th of December and that you had told him that you
24 were sorry because unknowingly you had wrought a most
25

1 grievous effect upon the city.

2 Did you make that statement to OKADA?

3 A I did. As the witness testified, I had no de-
4 sire to occupy Shanghai -- I had no desire to occupy
5 Nanking by war. I wished the occupation of Nanking --
6 the capture of Nanking to be a peaceful one, and I was
7 indeed -- I had no desire to turn Nanking into a field
8 of carnage, and I was most sorry when that happened.

9 That is all I conveyed to OKADA.

10 Q And that is what you meant when you said
11 "a most grievous effect upon the city"?

12 A That is so.

13 Q In your inspection on the 19th of December,
14 to which you make reference in your affidavit, did you
15 go into the refugee quarter?

16 A I did not enter the refugee zone.

17 Q Then you had no conversation with those re-
18 fugees, as set out in the affidavit of your witness
19 OKADA?

20 A It was not in the refugee zone, but in a temple
21 on the top of a mountain -- I have forgotten exactly
22 where -- that I met a couple of refugees and talked with
23 them there.

24 ACTING PRESIDENT: We will recess for fifteen
25 minutes.

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(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Brigadier Nolan.

4 BY BRIGADIER NOLAN (Continued):

5 Q General MATSUI, at the adjournment we were
6 discussing your concern over the greivous effect that
7 your armies had brought about in Nanking. The wit-
8 ness MAKAYAMA, page 21,893 of the record, told us
9 that you informed General TSUKADA, the Chief of the
10 Staff, to issue an order to all staff officers and
11 that the order contained these words: "As Nanking
12 is the capital of China, our capture of it is an
13 international event. Careful studies must be made
14 in this regard so as to dazzle China even more greatly
15 with Japan's military glory." Did you issue such an
16 order?

17 A Yes.

18 Q Now, reverting to the witness HIDAKA, as I
19 understand it, he was a Japanese consul official
20 stationed in Shanghai, is that so?

21 A Councillor of Embassy.

22 Q In Shanghai?

23 A Before the incident the Embassy was located
24 in Nanking.

25 Q After the incident it was located in Shanghai?

1 A Yes, that is so.

2 Q Yes. That was the official who received
3 the complaints of the foreign residents of Nanking?

4 A Yes.

5 Q Is he the same official whom you asked to
6 make an investigation?

7 A Yes.

8 Q And when did you ask for an investigation?
9 Was it in January of 1938?

10 A Yes.

11 Q And did you tell me that his report to you
12 was a verbal one?

13 A Yes.

14 Q And did he mention to you the fact that he
15 had been receiving constantly reports of complaints
16 of the foreign residents of Nanking?

17 A I did not hear that but what I had
18 councillor HIDAKA to do principally was to investi-
19 gate into matters of damages and losses inflicted
20 upon the embassies and legations of the foreign
21 powers in Nanking and to indemnify these damages as
22 well as damages inflicted upon foreigners.

23 Q Does that include the Chinese?

24 A Yes.

25 Q And was it not a fact that he was to

1 investigate upon the basis of the information
2 contained in the reports of complaints in his
3 possession?

4 A I do not know what method was used as that
5 was not reported to me but I assume that he based
6 his investigations on reports of foreigners in the
7 refugee zone.

8 Q Yes, and you knew that such reports were in
9 existence, did you not?

10 A At that time I did not hear of such reports
11 such as have been presented to this Tribunal.

12 Q Then why do you say you assume that he
13 predicated his investigation upon such reports?

14 A I am assuming now and after being informed
15 in this Tribunal that many such reports had been
16 submitted to the Japanese Consul.

17 Q All right. In your affidavit on page 10,
18 about the middle of the page, you say that when you
19 inspected the city "we saw only about twenty dead
20 Chinese troops lying on the streets." How many bodies
21 of dead civilians, including women and children, did
22 you see?

23 A I did not see any.

24 Q The reason I ask you is because in your
25 interrogation which is exhibit 257 in the case, at

1 investigate upon the basis of the information
2 contained in the reports of complaints in his
3 possession?

4 A I do not know what method was used as that
5 was not reported to me but I assume that he based
6 his investigations on reports of foreigners in the
7 refugee zone.

8 Q Yes, and you knew that such reports were in
9 existence, did you not?

10 A At that time I did not hear of such reports
11 such as have been presented to this Tribunal.

12 Q Then why do you say you assume that he
13 predicated his investigation upon such reports?

14 A I am assuming now and after being informed
15 in this Tribunal that many such reports had been
16 submitted to the Japanese Consul.

17 Q All right. In your affidavit on page 10,
18 about the middle of the page, you say that when you
19 inspected the city "we saw only about twenty dead
20 Chinese troops lying on the streets." How many bodies
21 of dead civilians, including women and children, did
22 you see?

23 A I did not see any.

24 Q The reason I ask you is because in your
25 interrogation which is exhibit 257 in the case, at

1 page 3461 of the record, you are asked this question:

2 "Q You stated that you went in to Nanking on
3 the 17th. Did you see any bodies of dead civilians,
4 women or children? Anything of that sort?"

5 And your answer was:

6 "A They had all been removed by this time. I
7 saw a few dead Chinese soldiers near the west gate."

8 Do I understand from that answer that the
9 bodies of the dead civilians, women and children had
10 been removed by the time you got there?

11 A I do not know of any fact of Chinese women
12 and children being killed within the walls of Nanking;
13 however--

14 Q Then why did you say in your interrogation
15 that they had all been removed by the time you entered
16 the city?

17 A I do not know whether I said that or not,
18 but if there had been, it was my idea then that they
19 would naturally have been removed from the scene.

20 Q Yes. At the bottom of page 10 of your affi-
21 davit you say that during your stay in Shanghai after
22 the fall of Nanking until February of 1938 "the only
23 thing I heard was a rumor towards the end of December
24 1937 to the effect that there were some cases of
25 illegal acts in Nanking but I had received no official

1 report about such fact." Where did the rumors come
2 from?

3 A At that time there were many rumors afloat
4 not only among Chinese but among foreigners of all
5 nationalities and I learned from reports from persons
6 who heard of these rumors.

7 Q And from the newspapers, General MATSUI, also?

8 A Such rumors may have appeared in Chinese
9 newspapers but at that time I do not think, if my
10 recollection is right, that such matters did get into
11 print.

12 Q Did you see it in any foreign newspaper?

13 A There might have been some in the foreign
14 press but from my careful scrutiny of Chinese and
15 foreign newspapers at that time I did not notice any.

16 Q You heard the accused MINAMI inform this
17 Tribunal at page 20,015 that the rape of Nanking had
18 been reported in the press of the world. Did you
19 read any of those reports?

20 A No, I have not read any such reports but if
21 they had been reported might it not have been reported
22 at a much later date after I had already left Shanghai
23 because when I was in Shanghai I did not notice any.

24
25

1 Q Well, you had a conversation with Mr.
2 Hallett Abend in Shanghai in January 1938?

3 A Yes, I saw him twice.

4 Q And you sent for him?

5 A Having heard various reports at that time
6 I met Mr. Abend to hear from him what he had heard
7 and also on the basis of the facts that I knew to
8 impart the factual information that I had in my
9 possession to him.

10 Q In other words, you wanted to quell the
11 rumors that were abroad in the land at that time?

12 A Well, "quell" is hardly the word to be used
13 in such an instance as this. My desire was to see
14 that the truth and the facts was reported.

15 Q The only reason I use the word is because
16 you used it at page 3,463 of the record, in exhibit
17 257. You were asked in your interrogation this
18 question:

19 "Q When did you first see Hallett Abend after
20 the Nanking capture?"

21 The answer was:

22 "A I met him in China. I first met Mr. Abend
23 after, perhaps a month after, Nanking."

24 "Q Did Mr. Abend ask for an interview and get it?

25 "A No, I requested Mr. Abend to see me as I had

1 heard rumors and I wished to quell these by putting
2 the facts before Mr. Abend."

3 Is that what took place, General MATSUI?

4 A Yes.

5 Q And what rumors are you referring to when
6 you mention this conversation with Mr. Abend?

7 A Well, as you, Mr. Prosecutor, have suggested,
8 as referring to the many outrages alleged to have been
9 committed by the Japanese troops in Nanking, and my
10 desire was to tell Mr. Abend of the truth of the
11 situation as I believed it, and although there were
12 many foreign correspondents in Shanghai at the time,
13 I felt that Mr. Abend was the most trustworthy of
14 these correspondents and therefore I met him.

15 Q Who was alleging that these atrocities had
16 been committed?

17 A Well, as to who were talking about these
18 outrages, I cannot say concretely but I should think
19 that the sources of such rumors were for the most part
20 Chinese and foreigners who had heard from Chinese who
21 were passing on the information, perhaps in fun.

22 Q Well, apart from the funny side of it,
23 who passed on the information to you?

24 A Well, who it was I do not now recall, but
25 it was one of my subordinates.

1 Q Probably your Chief of Staff?

2 A Yes.

3 Q Now, you were going to tell Mr. Bend what
4 the facts were so that there would be no misapprehension
5 about the true state of affairs?

6 A Yes.

7 Q But you had received no report of your
8 investigators at this time?

9 A No, but I had been receiving fragmentary
10 reports.

11 Q Fragmentary reports? From whom?

12 A I am referring to reports of the gendarmerie.

13 Q Did you receive more than one report from
14 the gendarmerie?

15 A I myself did not receive them directly but
16 my staff officers were receiving them daily.

17 Q Daily since the fall of Nanking?

18 A Yes.

19 Q And those reports were, of course, communi-
20 cated to you as the Commander in Chief of the Army,
21 weren't they?

22 A As the gendarmerie were not my direct subor-
23 dinates, but the subordinates of the Commanders of
24 the Armies, the reports were made to those Commanders
25 and not to me.

1 Q And what did the Commanders of the Armies
2 do with the reports when they received them from
3 the Kempeitai?

4 A When the facts were clearly unraveled and
5 known, the offender was tried at a court martial
6 and punished.

7 Q Now, just to go back a moment: You mention
8 fragmentary reports from the Kempeitai in the hands
9 of your staff officers. You mean staff officers on
10 your staff as Commander in Chief, do you not?

11 A Yes.

12 Q And those reports were brought to your knowledge

13 A Ordinarily discipline and morals within an
14 army was the responsibility of the Division Commander.
15 The Commander of the Army above the Division Commanders
16 supervised these Division Commanders and maintained
17 the court martial under his jurisdiction. I was above
18 them. I was the Commander above them and my Area Army
19 Headquarters had no legal organ nor any military police
20 or gendarmic under its direct control, and therefore
21 reports were not made to my headquarters or to me
22 directly. It would be more proper to say that the
23 facts were brought to my attention or communicated
24 to me for reference purposes.
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1 Q The staff officers on your headquarters were
2 constantly receiving reports from the Kempeitai, were
3 they not?

4 A It would be more correct to say that inasmuch
5 as I told my staff officers to put these matters
6 under investigation, they went to the Kempeitai to
7 investigate, to get information rather than to re-
8 ceive reports from the Kempeitai, the gendarmerie.

9 Q And having investigated they came back to
10 your headquarters with the reports?

11 A At that time as you would understand there
12 was a battle going on, and troops were constantly on
13 the move, and it was not easy to get the facts that
14 you desired to get, and, therefore, it was only nat-
15 ural that any reports that came in were fragmentary
16 and abstract.

17 Q Well, now, nobody had moved Nanking. It was
18 still there. And what I am trying to get from you is
19 what reports you had as to what was going on in that
20 city from your staff officers, such information being
21 obtained from the Kempeitai?

22 A Inasmuch as these incidents had already
23 occurred in the past and the reports or information
24 were heard indirectly through various informants,
25 that is, different people, and with troops constantly

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8 your headquarters with the reports?
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10 was a battle going on, and troops were constantly on
11 the move, and it was not easy to get the facts that
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16 still there. And what I am trying to get from you is
17 what reports you had as to what was going on in that
18 city from your staff officers, such information being
19 obtained from the Kempeitai?
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A Inasmuch as these incidents had already
21 occurred in the past and the reports or information
22 were heard indirectly through various informants,
23 that is, different people, and with troops constantly
24
25

1 on the move, some in pursuit of the Chinese, some
2 returning to North China, some being deployed to
3 Chekiang, it was of the utmost difficulty to ascertain
4 these facts. And, therefore, it was not possible for
5 me to get any reports which contained -- ascertained
6 the concrete facts.

7 Q Then, may I ask you how you were able to
8 give to Mr. Abend in January of 1938 the true facts
9 of the situation?

10 A I talked to Mr. Abend on the basis of the
11 reports which had been communicated to me from the
12 Kempei, or the gendarmerie.

13 Q You said something a moment ago about dis-
14 cipline and morals being the responsibility of a
15 subordinate commander to yourself.

16 A The responsibility of the division commander.

17 Q You were the Commander-in-Chief of the Cen-
18 tral China Area Army, were you not?

19 A Yes.

20 Q Are you suggesting to this Tribunal that
21 that power of command did not carry with it the power to
22 enforce discipline on the troops under your command?

23 A As Commander-in-Chief of the Central China
24 Area Army I was given the power to command operations
25 of the two subordinate armies under my command, but I

1 did not have the authority directly to handle the
2 discipline and morals within these respective armies.

3 Q No, but you had the power to see that dis-
4 cipline and morals were maintained in the units under
5 your command?

6 A It would be better to say, and more correct
7 to say, obligation rather than authority -- obligation
8 or duty.

9 Q Yes. And that is the reason why you sum-
10 moned your officers in Nanking after your entry and
11 talked to them about disciplinary measures, is it
12 not?

13 A Yes.

14 Q So that you are not attempting to say that
15 the power of discipline was not inherent in your com-
16 mand, are you?

17 A I do not -- I am not trying, nor do I evade
18 all responsibilities in connection with the capture of
19 Nanking as area commander -- area army commander --
20 commanding my subordinates. However, I am only trying
21 to tell you that I am not directly responsible for
22 the discipline and morals of the troops under the
23 respective armies under my command.

24 Q And that is because there is an army commander
25 in the units under your command, and you carry out

1 disciplinary measures through your army commanders?

2 A I, myself, did not have the authority to
3 take disciplinary measures, or to hold court-martial,
4 such authority resided in the commander of the army
5 or the division commander.

6 Q But you could order a court-martial to be
7 held either in the army or in the division?

8 A I had no legal right to issue such an order.

9 Q Well, then, how do you explain your efforts
10 to show that you ordered severe punishment meted out
11 to the guilty for the outrages in Nanking, and that
12 you did everything in your power as Commander of the
13 Central China Area Army to give severe punishment to
14 the guilty?
15

16 A I had no authority except to express my de-
17 sires as over-all Commander-in-Chief to the commander
18 of the army under my command and the divisional com-
19 manders thereunder.

20 Q And I suppose a general officer commanding
21 expresses his desires to those subordinate to him in
22 the form of orders?

23 A No, that would be difficult in the light of
24 law.

25

1 Q Well, when you want those who serve under you
2 to do something, General MATSUI, what do you do about
3 it?

4 A The authority that was vested in me was to
5 command -- was the overall operational command of the
6 two armies under me. That was all. Hence it would be
7 a very difficult matter to determine my legal responsi-
8 bilitys with regard to my -- to the question of
9 discipline and morals and I cannot make any statement,
10 any definite statement, on that at the present time. I
11 cannot make any definite statement on that here.

12 Q Well, I don't want to argue with you but if
13 your military superiors in Tokyo were dissatisfied with
14 the conduct of your army in China who would they hold
15 responsible?

16 A As I have said before, it is very difficult
17 to try to determin this legal question and I do not know
18 how the general staff offices in Tokyo felt at that
19 time. However, with regard to this question, while I
20 was in Shanghai or even after I returned to Tokyo there
21 was no time when I was reprimanded by the Chief of
22 the Army General Staff or the War Minister.

23 Q Well, then, perhaps you will tell me why
24 General HOMMA went out to Shanghai early in February
25 of 1938.

1 A It was only natural that the central army
2 authorities would be greatly worried and under strong
3 misgivings from the reports of outrages committed by
4 the Japanese troops at the time of the capture of
5 Nanking and I, too, naturally shared that misgiving
6 and it was because of that great worry on my part that
7 I instructed the officers under my command to work to
8 rectify any such actions on the part of troops under
9 their command.

10 Q In other words you told them that discipline
11 had to be maintained?

12 A What do you mean by "them"?

13 Q I mean those who served under you to whom you
14 issued instructions.

15 A Yes.

16 Q All right. Now, did General HOMMA come to your
17 headquarters?

18 A Yes, he did.

19 Q And he told you of the rumors or reports that
20 had been received in Tokyo?

21 A No, he did not speak to me at all about particu-
22 lars.

23 Q He spoke to you generally about the conduct of
24 your troops in Nanking, did he not?

25 A Yes.

Q Who had told him about it?

1 A What do you mean by gave him information or
2 told him?

3 Q As I understand you, General HOMMA came over
4 to China because the higher command were concerned
5 about the conduct of troops in Nanking.

6 A Yes.

7 Q Where did he get the information which gave him
8 his concern?

9 A From what I have heard for the first time here
10 in this Tribunal, I presume that he learned of these
11 matters from the reports sent by the Foreign Office to
12 the Army.

13 Q You are quite sure that you didn't sent a report
14 to the headquarters in Tokyo, did you, General MATSUI?

15 A You mean with regard to outrages?

16 Q Yes.

17 A No.

18 Q As a matter of fact you never reported any of
19 these incidents which had come to your attention to the
20 higher command in Tokyo.

21 A I may have talked about this matter to the
22 General Staff Office after my return to Tokyo but I
23 have never sent an official report.

24 Q Have you ever sent an unofficial report?
25

1 A As far as I remember no reports were made in
2 my capacity as Commander-in-Chief of the Area Army,
3 official or unofficial.

4 Q Although you did know of some incidents having
5 occurred you didn't report those to Tokyo?

6 A If there was any necessity of sending reports
7 with regard to the discipline and morals of troops, that
8 authority, or responsibility rather, did not reside in
9 the Commander-in-Chief of the Area Army.

10 Q Well, where did it reside?

11 A I would like to say that this responsibility
12 resided in the division commander.

13 Q Well, where are the army commanders? Don't
14 they come into this picture?

15 A Legally that would be difficult to say and in
16 my interpretation any responsibility naturally resided
17 in the division commander whose responsibility it would
18 be to send reports to the central army authorities
19 through their immediate superior, the commander of the
20 army.

21 Q Then just one last question on this phase:
22 The divisional commander would send a report through
23 his army commander through the commander-in-chief of
24 the armies to Tokyo?

25 A I cannot speak of this definitely from the legal

1 standpoint whether the division commander should send
2 such reports through his immediate superior, that is,
3 the commander of the army, or by channeling it through
4 the Commander-in-Chief of the Area Army. It is
5 difficult for me legally speaking to make any clear
6 statement on that.

7 Q Well, in any event, however they were channeled,
8 they went through the Commander-in-Chief of the Central
9 China Area Army?

10 A Well, I can't say whether it is legally correct
11 or not but, as a matter of fact, such reports were not
12 sent by me.

13 ACTING PRESIDENT: We will adjourn until
14 tomorrow morning at 9:30.

15 (Whereupon, at 1600, an adjournment
16 was taken until Tuesday, 25 November 1947, at
17 0930.)
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25 NOVEMBER 1947

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Of
WITNESSES

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		3499	Magazine entitled "Dai Asia Shugi" January 1941 issue	33898	
2396		3499-A	Excerpt therefrom - Article written by the Accused MATSUI, Iwane (p.2)		33898
		3500	Magazine entitled "Dai Asia Shugi" July 1941 issue	33912	
2397		3500-A	Excerpt therefrom - Article written by the Accused MATSUI, Iwane (p.10)		33912
2083	3501		Affidavit of TAKAHASI, Michitoshi		33922
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2475	3503		Interrogation of Ambassador Ott		33925
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2542	3504		Affidavit of TANAKA, Shinichi		33958
2783	3505		Affidavit of KOMATSU, Mitsuhiko		33960

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Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
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2761	3507		Affidavit of YOKOI, Tadao		33967
2862	3508		Affidavit of OSHIMA, Hirosni		33974
2855	3509		Certificate showing Military Attaches and Assistant Military Attaches to Em- bassies and Legations were under the Command of the Chief of the General Staff in compliance with Military orders concerning the organization of General Staff Headquarters		33984

1 Tuesday, 25 November 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 - - -

11 Appearances:

12 For the Tribunal, all Members sitting, with
13 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
14 WEBB, Member from the Commonwealth of Australia and
15 HONORABLE JUSTICE R. B. PAL, Member from India, not
16 sitting from 0930 to 1600.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 - - -

20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 Language Section, IMTFE.)
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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

- - -

I W A N I M A T S U I, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

ACTING PRESIDENT: Before you proceed,
Brigadier, I have a question by a member of the
Court.

If you had no power to give orders relative
to the maintenance of discipline, please explain the
last sentence on page 9 of your affidavit, which I
will read to you:

"After entering Nanking on 17 December, I
heard about it for the first time, from the Com-
mander of the Kempei unit, and I, at once, ordered
every unit to investigate thoroughly and to punish
the guilty men."

How do you explain that statement?

THE WITNESS: I gathered -- by that passage
I meant to say that I gathered together my subord-
inate Commanders and commanding officers of the
various units and expressed to them my desires in
regard to the maintenance of discipline and ordered
them to take appropriate measures.

1 THE MONITOR: Instead of "subordinate Com-
2 manders," it should be "subordinate Army Commanders."

3 ACTING PRESIDENT: But, I thought you testi-
4 fied yesterday that you had no power to give orders.

5 THE WITNESS: At the time, being Area
6 Commander, I was given authority and power to unify
7 and control the strategy -- the joint strategy of
8 the two Armies.

9 THE MONITOR: "Area Commander" should be
10 substituted by "Area Army Commander."

11 THE WITNESS: (Continuing) Therefore, I
12 could not say that the maintenance of military dis-
13 cipline had no connection with military strategy,
14 and therefore, in so far as the two were inter-
15 connected, I thought that I did have the power to
16 interfere in matters relating to military discipline,
17 but in the strict legal sense I did not conceive
18 myself as having the power to give specific orders --
19 orders in detail with regard to the maintenance of
20 military discipline, and this remains my belief to
21 the present day.
22

23 ACTING PRESIDENT: Brigadier Nolan.

24 BRIGADIER NOLAN: If it please the Tribunal.

25 CROSS-EXAMINATION

BY BRIGADIER NOLAN (Continued):

1 Q On page 14 of your affidavit, General
2 MATSUI, you make reference to a meeting in Berlin
3 in 1929. At that time, you had just relinquished
4 your post as Chief of the Second Section of the
5 General Staff Headquarters. Am I right in saying
6 that the basic work of that section was with a
7 collection of information with respect to countries
8 other than China?

9 A Its duties were general observation.

10 THE MONITOR: Japanese court reporter.

11 No correction.

12 BRIGADIER NOLAN: Did he answer?

13 THE MONITOR: Yes, he did.

14 Mr. Reporter, will you please repeat the
15 answer as we interpreted it.

16 (Whereupon, the last answer was
17 read by the official court reporter.)

18 THE MONITOR: Rather, the witness just
19 merely said, "It is general observation." "Duties"
20 represents our interpretation.

21 Q And, you say that you made a trip, beginning
22 in January '29. What countries did you visit?

23 A Passing through French Indo-China, Siam,
24 Burma, and India, I went to Europe, and there, after
25 touring Italy, France, and other countries, passed

1 through Berlin in April.

2 Q And, who defrayed your traveling expenses?

3 A The General Staff.

4 Q Because, in fact, you were a member of the
5 General Staff at the time you made this trip, were
6 you not?

7 A I was attached to the General Staff.

8 Q And, you were on duty while you made this
9 tour.

10 A The duty of an officer attached to the
11 General Staff is that, as far as his position goes,
12 he is in the General Staff, but he has no special
13 duties there.

14 Q The duty -- I suggest that the duty of
15 an officer of the General Staff in the Japanese Army
16 is to be told what he is to do and to do it.

17 A That is so, but my trip to Europe was
18 authorized by the General Staff because I had just
19 completed a long tour of duty as -- a long tour of
20 duty in the General Staff, and it was partly as Chief
21 of the Second Section, and it was partly for the
22 purpose of recuperation, and also it was to enable
23 me to get a better idea of the world situation.
24

25

1 Q Now, when you visited Italy, France and
2 other European countries I suppose you saw the
3 Military Attaches in those countries?

4 A I did.

5 Q Then it was not necessary for you to get
6 together with them in Berlin for the purposes of
7 renewing friendship, was it?

8 A It was thought desirable that the Military
9 Attaches to the various missions in Europe should
10 have the opportunity of getting together after some
11 time without seeing each other and therefore the
12 Military Attache in Germany, Major-General OMURA, sent
13 invitations to all the other Military Attaches and
14 they all accepted.

15 Q Yes. And they knew that you were coming to
16 Berlin because you had told them when you would arrive.

17 A Yes.

18 Q And there were Military Attaches at this
19 meeting from Great Britain, Germany, France, Poland,
20 Russia, Austria, Turkey and Italy; is that correct?

21 A Yes.

22 Q And the accused HASHIMOTO was there, being
23 the Military Attache in Turkey at that time.

24 A Yes.

25 Q Was the accused SUZUKI there?

1 A It was not the defendant SUZUKI. The
2 Military Attache in Poland was a certain Colonel
3 SUZUKI, but it was a different SUZUKI.

4 Q Yes, I understand.

5 Now, at this meeting such matters as sabotage
6 and espionage against Russia were discussed, were
7 they not?

8 A No, no such things were discussed. Each
9 representative told of the situation in the country
10 in which he was stationed.

11 Q Yes. And what else was done at the meeting?

12 A After talking all day on various topics we
13 went to a restaurant for the evening and had a merry
14 time. That is about all.

15 Q In exhibit 733-A, being an excerpt from your
16 interrogation held on the 25th of April, 1946, you
17 were shown a copy of exhibit 732-A. And exhibit 732-A
18 is entitled "Items Concerning the U.S.S.R. Presented
19 at the Conference of Japanese Military Attaches in
20 Europe." Among the items mentioned in the document
21 are sabotage and espionage, and you made this state-
22 ment in your interrogation: "Having read the document
23 shown to me, I have come to the conclusion that the
24 notes were made by one of the persons who were present
25 at the Conference and apparently reflect correctly

1 the contents of some of the questions which were
2 considered at the Conference."

3 Do you wish to make any change in that
4 statement, because I observe in your affidavit you
5 refer to exhibit No. 733?

6 A I do not know what kind of document 733 is,
7 but during the course of my interrogations by the
8 Soviet authorities they presented me with a document
9 which was quite different from the one you described.

10 Q Well, I will present it to you again, if I
11 may. It is exhibit 732-A.

12 (Whereupon, a document was handed to
13 the witness.)

14 Q Now, General MATSUI, that is not quite
15 different from the document I have just described,
16 because it is the same document. Will you please look
17 at it?

18 A It is quite different. It is a completely
19 different document. The document which was shown to
20 me had on page 1 the names of the people, who and who
21 and who, and then the various items were itemized. And
22 it was a very short document.

23 Q Well, the various items are itemized here
24 and perhaps you will look at them and tell me whether
25 they represent the matters discussed at the meeting

1 in Berlin?

2 A We never specially discussed such problems
3 as written down here. First, to begin with, the
4 very title, "Items concerning the U.S.S.R., presented
5 at the Conference of Japanese Military Attaches in
6 Europe" is sheer nonsense.

7 Q Well, the accused HASHIMOTO at page 28,839
8 of the record stated that at this meeting to which
9 we are referring the topic of sabotage and espionage
10 against Russia came up. Is he wrong about that?

11 A I do recall, of course, that since Colonel
12 HASHIMOTO was Military Attache in Turkey he spoke of
13 the question of intelligence work vis-a-vis Russia.
14 Of course, I do not recall the contents of his talk
15 in detail at the present moment.

16 Q Did it deal with the question of sending White
17 Russian spies into the U.S.S.R.?

18 A I do recall that he spoke of utilizing the
19 White Russians who were in Turkey, but I do not recall
20 ever having discussed the question of specially sending
21 White Russians into Russia surreptitiously.
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1 Q Well, now, General MATSUI, you will agree with
2 me, won't you, that this meeting was for the purpose of
3 discussing what might be done by way of espionage and
4 sabotage against Russia?

5 A Well, the officers stationed in countries
6 neighboring Russia probably talked about Russia. The
7 attaches stationed in Italy talked about the
8 Mediterranean, and so on. Thus, each attache spoke of
9 the subjects he was most concerned with in the light of
10 his duty, and I do not recall the exact contents of our
11 entire conversations at this date.

12 BRIGADIER NOLAN: I will leave it at that.

13 Q At page 15, you say that you were a supreme
14 war councillor, General MATSUI. Am I right in saying
15 that you resigned in March 1935?

16 A I don't recall the exact date. I believe, how-
17 ever, that you are right.

18 Q Why did you resign?

19 A I resigned as supreme war councillor because
20 I was appointed commander of the Taiwan garrison force.

21 Q It wasn't because of any disagreement in
22 policy, was it?

23 A No, that had nothing to do with it.

24 Q Then, I observe that you were appointed a
25 cabinet advisor and that your opinion was never taken

1 up concerning China and Asiatic problems, and that you
2 never offered your own opinion.

3 Let me read to you what the accused KIDO says
4 about this position of the cabinet councillor in the
5 record at page 31,413:

6 "Q What is the duty, very briefly, of a cabinet
7 councillor?

8 "A I think according to the government regulations
9 concerning cabinet councillors their main function was
10 to serve as consultants to the Prime Minister in con-
11 nection with bringing about an early termination of the
12 China Incident.

13 "Q Was that cabinet councillor a special position,
14 created for that precise purpose?

15 "A Yes."

16 Now, how do you reconcile that statement of
17 the accused KIDO with your statement that you never
18 offered your opinion on any matter concerning China or
19 Asia?

20 A Well, the original reason for the setting up
21 of the system of cabinet councillors may be as is written
22 in the KIDO diary, but actually we were advisors only
23 in name, and although we gathered together once or
24 twice a week at the Prime Minister's official residence,
25 we did a lot of talking, but the talking never came to

1 anything more than that.

2 Q Perhaps it was a social meeting like the one
3 in Berlin; was it?

4 A It was not a social meeting; it was political.
5 I think it would be better to call it a political
6 gesture of the government at the time.

7 Q Now, on page 16 you proceed to discuss the
8 Greater Asia Association. Now, as the name would
9 imply, the basic purpose of that Association was to
10 create a Greater East Asia?

11 A Yes.

12 Q And the Asiatic countries included were China,
13 Indo-China, Siam, Dutch Indies, Philippines, Malaya,
14 Mongolia and Siberia; is that right?

15 A It was our intention that we include all the
16 so-called Asiatic peoples.

17 Q And those that I have mentioned to you would
18 be included in that class?

19 A Yes.

20 Q Now, what nationalities in the Soviet Union
21 did you consider Asiatic?

22 A I think that most of the peoples inhabiting
23 the Siberian regions are Asiatics.

24 Q And that would include the Mongolians?

25 A That goes without saying.

MATSUI

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1 Q The Burjats?

2 A Yes.

3 Q The Yakuta?

4 A Yes.

5 Q And the Tsukches? Now, were they included?

6 A I cannot -- I do not know this name, Tsukches.

7 Q Now, in order to enter into this Greater East

8 Asia which you were advocating, it would be necessary

9 for these countries to break away; for example, Siberia

10 and Mongolia would have to break away from Russia?

11 A My principle of Great Asia was not a principle
12 which called for the separation and independence of these
13 peoples from the country with which they happened to be
14 affiliated. We did not necessarily think it necessary
15 for the -- for instance, the Yakuts Republic to leave
16 the Soviet Union.

17 Correction: We thought it was quite all right
18 if the Yakuts, for instance, remained in the Soviet
19 Union or if India remained in the British Commonwealth.
20 What we aimed at was that all the peoples of Asia should
21 work together for the prosperity of Asia.

22 Q I suppose Manchuria would be an example of what
23 you are advocating now, would it?

24 A You could consider it that way.
25

1 Q Yes, and in the case of war with the USSR,
2 Manchuria would be a very valuable base of operation,
3 would it not?

4 A History has proved that in the case of a war
5 between Russia and Japan, Manchuria would be a base.

6 Q Now, I put it to you that the policy of your
7 Association was that these Asiatic countries and
8 peoples that I have named were to be brought into the
9 structure of Great East Asia, and if their entry could
10 not be brought about by peaceful negotiations, the
11 question would have to be settled by war.

12 A The basic principle underlying the Asia move-
13 ment in Asia was the same as that as the movement for
14 the federation of Europe which arose in Europe and of
15 the Pan-American movement in America.
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1 Q You were in China traveling in 1935 and 1936,
2 General MATSUI?

3 A Yes.

4 Q And you were preaching the gospel of this
5 association?

6 A Yes.

7 Q And subsequently you made tours of French
8 Indo-China and the southern regions, did you not?

9 A That was way afterwards, after the outbreak
10 of the Greater East Asia war.

11 Q And when did the Greater East Asia war break
12 out?

13 A 1941.

14 Q Were you in the Philippines?

15 A Yes.

16 Q In all these tours your effort was to convince
17 these peoples of the propriety of their entering the
18 structure of the Greater Asia Association?

19 A By that time, since we had established a
20 Great Asia League, I went around exhorting the
21 peoples of the countries of Great Asia to cooperate
22 with the Great Asia League, but at the same time I
23 had many friends in the south asiatic countries --
24 in French Indo-China, Siam, and the Philippines.
25 Former President Laurel, of the Philippine Republic,

1 and Professor Duran also had expressed their sympathy
2 for Asianism several years before, and I had often
3 met with them in Tokyo and talked with them on this
4 point.

5 Q To clear my own mind: When was the League
6 established -- the date?

7 A I don't recall the date. The Japanese
8 Government assembled the representatives of the coun-
9 tries of Great Asia and held a conference in Tokyo.

10 Q You say in your affidavit it was at the time
11 of the first KONOYE Cabinet. Is that correct or was
12 it the second KONOYE Cabinet?

13 A I believe you are confusing the various so-
14 cieties with which I was connected at one time or
15 another, namely, the Asia Association, the Asia
16 Development League, and the Dai Nippon Asia Develop-
17 ment League. These various societies did have the
18 same principles of Asianism, but, depending upon the
19 international circumstances of the time and of the
20 internal political structure of Japan, they were
21 established at different dates.

22 THE MONITOR: Japanese court reporter.

23 (Whereupon, the Japanese court
24 reporter read.)

25 THE INTERPRETER: Correction: I believe you

1 had been confusing the three societies with which I
2 have been concerned: the Asia Association, the Asia
3 Development League, and the Great Japan Asia Develop-
4 ment League. These various societies had principles
5 in common. They all advocated Asianism, but their
6 form and structure differed from time to time accord-
7 ing to the changing international circumstances and
8 the changing internal structure of Japan.

9 THE MONITOR: The Internal Political situa-
10 tion in Japan.

11 Q I am not confusing anything. I asked you a
12 simple question: "When was the Dai Nippon Development
13 League established?"

14 A I think that was during the first KONOYE
15 Cabinet.

16 Q All right.

17 Now, you state in your affidavit, on page 19,
18 that the organization, and I take it you are talking
19 about the Dai Nippon Asia Development Association,
20 published an organ. Was that the Dai Asia Shimbun?

21 A It was not a newspaper; it was a magazine.

22 Q What was the name of it?

23 A The Dai Asia Association published the Dai
24 Asia Shugi, or The Principle of Great Asia. After
25 the Asia Development League was established, the name

1 of the magazine became Dai Asia, or Great Asia, I
2 think.

3 Q Now I show you a copy of that magazine for
4 the month of January, 1941. That is the Dai Asia
5 Shugi. Will you look at the article on page 2 of
6 that magazine? Did you read it?

7 A Yes.

8 BRIGADIER NOLAN: I offer for identifica-
9 tion, if the Tribunal pleases, the magazine Dai Asia
10 Shugi for January, 1941.

11 CLERK OF THE COURT: The magazine called
12 Dai Asia Shugi for the month of January, 1941, will
13 receive exhibit No. 3499 for identification only.

14 (Whereupon, the magazine above
15 referred was marked prosecution exhibit 3499
16 for identification.)

17 BRIGADIER NOLAN: And I offer in evidence
18 the article written by the accused MATSUI appearing
19 at page 2 of that January issue, 1941.

20 ACTING PRESIDENT: It will be admitted in
21 evidence.

22 CLERK OF THE COURT: Defense document 2396,
23 being an excerpt from the Dai Asia Shugi for the month
24 of January, 1941, will receive exhibit No. 3499-A.

25 (Whereupon, the document above

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referred to was marked prosecution exhibit
3499-A and received in evidence.)

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1 BRIGADIER NOLAN: With the permission of the
2 Tribunal I will read exhibit 3499-A. It is entitled
3 a "Proposal for unification and rapid progress of
4 various organizations for development of Asia by
5 MATSUI, Iwane.

6 "The year 2600 of the Imperial Japanese Era
7 brought faith in Imperial history and awakened the
8 whole nation together with the determination to face
9 the present world situation. Also the conclusion of
10 the Tripartite Pact between Japan, Germany and Italy
11 and the recognition by the Nanking Kuomintang Govern-
12 ment have forced them irresistibly to go on the road
13 to construct a New Order in Asia against a long
14 dominance of Great Britain, America and France in
15 Asia. Therefore, the reconstruction of the various
16 internal organs is urgently necessary in order to
17 meet this serious situation together with the estab-
18 lishment of a so-called new structure in politics,
19 economics and in various other spheres.

21 "Now, we have welcomed the 2601th year with
22 great pride and pleasure in living in this sacred age
23 of Showa to promote the building of Greater Asia with
24 such resolution and structure. However, we cannot
25 but consider the determination and conviction of the
people both in and out of power quite insufficient.

1 Why do I say so? We must first glance at the recent
2 administration of the national policy by the Govern-
3 ment. The Tripartite Pact has already been concluded
4 in accordance with the declaration made at the time of
5 the formation of the KONOYE Cabinet and the great
6 Imperial Rescript was issued to urge the people to
7 make up their mind. But we feel that since then the
8 Government has been too scrupulous in carrying out
9 the foreign policy without firm faith to resolutely
10 execute the national policy. Moreover, many politicians
11 in and out of power and learned people have not, to
12 our regret, come up to our expectation in their en-
13 thusiasm in this respect. Therefore, though the people
14 at large are out of the so-called 'Obedient to the
15 Imperial Rescript' principle and hoping for an epoch-
16 making decisive step to be taken by the Government,
17 they are, to say the truth, doubtful of the attitude
18 of the Government, which is so slow to carry out its
19 policy. Internal situation such as this is naturally
20 reflected on the foreign countries, east and west,
21 and it is regrettable that not only many Asiatic
22 countries headed by China, but also several European
23 powers are of late, beginning to make light of our
24 determination and foothold.
25

"Hereupon, out of my dissatisfaction in the

present situation I urge the political thought, cultural, and other bodies for the development of Asia to rise up. The wise and the learned people as well as energetic young men belonging to these bodies are certainly willing, I believe, to carry out these measures. Furthermore, the conviction and enthusiasm of these apostles of the Asiatic revival with years of culture and researches will, I am sure, be a sole guiding power for carrying out the national policy, which had been hindered by the circumstances and interests of this complicated phase of life. I now propose the unification of these Asia-revival bodies with a view of their cooperation. Though these bodies have different objectives and their nature, politically and economically, are different as are their histories and organizations, their chief aims are of course the unification and rehabilitation of the Asiatic races. Yet, up to the present, as their thoughts and standpoints differed, they have not been the same at least in their measures and expectation. To the contrary, these bodies are acting independently as they please, far from answering the requirement of the so-called 'present New Structure of Society.' Moreover, such different organizations of these very bodies have disturbed the people's faith and ideal in

1 the Asiatic Revival Policy, unable to meet the
2 present situation where national solidarity is
3 cried. Such being the case, recently we have
4 organized the League of the Asiatic Development
5 Bodies, exerting efforts for more than a year to
6 unite all these bodies but with a regrettable result
7 at present. Therefore, we want to take a drastic
8 measure to unite and adjust all these bodies into
9 one organization and to control and guide it by a
10 uniform thought and faith together with starting a
11 new collective activity by concentrating the hitherto
12 separate and duplicated efforts of all these bodies.
13 We hope also to correct and guide the concept of the
14 Asiatic Revival maintained by the people in and out
15 of the Government to unify and lead their ideals on
16 the right path. Thus, what this organization aims at
17 must, of course, harmonize with the Government's
18 policy and sometimes it will advise and encourage them
19 to assist their Asiatic Revival policy with all its
20 might. Furthermore, its ambition is to become the
21 nucleus of the nation's cultural idea of Asiatic
22 Revival at home and abroad and to start an enlighten-
23 ment movement for the nations, east and west, with a
24 view to join the movement of the Imperial Rule
25 Assistance started by the Asiatic Revival organizations.

1 "In spite of many Asiatic Revival bodies
2 established in the country, several new ones are now
3 being organized as a natural expression of dissatis-
4 faction with the old ones. Therefore, some measure to
5 control them is urgent. Although these old bodies
6 have, of course, respective histories and special
7 circumstances, their unification will not be difficult
8 if treated with laws and it will not be so hard for it
9 to continue the work and aims of the old ones under
10 the consistent control. In short, in controlling, we
11 must depend upon the effectiveness of each person and
12 organization. Earnestly, we desire all the members of
13 the various bodies to agree with us, and the authori-
14 ties of the China Affairs Board (KOAIN), who are
15 naturally central figures of this movement being al-
16 ready leaders of the League, to contemplate over this
17 matter.

18 "As indicated above, here we suggest the
19 unification of all the Asiatic Revival Bodies. We
20 desire all the conscious apostles for the cause of
21 Asiatic Revival to rise and cooperate with one another
22 to guide the people. After all, the present situation
23 has become clear in its destination and does not allow
24 us to hesitate. If we are constrained and over-
25 cautious to act now, we shall entangle the situation

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2 established in the country, several new ones are now
3 being organized as a natural expression of dissatis-
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5 control them is urgent. Although these old bodies
6 have, of course, respective histories and special
7 circumstances, their unification will not be difficult
8 if treated with laws and it will not be so hard for it
9 to continue the work and aims of the old ones under
10 the consistent control. In short, in controlling, we
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12 organization. Earnestly, we desire all the members of
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16 ready leaders of the League, to contemplate over this
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18 "As indicated above, here we suggest the
19 unification of all the Asiatic Revival Bodies. We
20 desire all the conscious apostles for the cause of
21 Asiatic Revival to rise and cooperate with one another
22 to guide the people. After all, the present situation
23 has become clear in its destination and does not allow
24 us to hesitate. If we are constrained and over-
25 cautious to act now, we shall entangle the situation

1 thus misleading the country at the crossroads of life
2 or death. It is, of course, necessary to listen to
3 the voice of the nation for those who want to guide
4 the national policy with sincerity and good faith.
5 However, we cannot approve very much of shirking
6 responsibility under such a pretext or following an
7 easy-going course, especially now when the decision
8 of our national politics depends entirely upon the
9 determination to put our national policy towards
10 Greater Asia into effect. I feel most deeply our
11 responsibility as apostles of the Asiatic Revival
12 under the present situation, and this is the reason
13 why I appeal to our comrades to rise at once."

14 BY BRIGADIER BOLAN (Continued):

15 Q Now, General LATSUI, I want to ask you just
16 one or two questions about this article. In what way
17 was the government too scrupulous in carrying out its
18 foreign policy?

19 A At the time, hostilities between Japan and
20 China were in progress, and, therefore, some of the
21 government's policies towards Asia as a whole were
22 imbued with a strong Asianistic spirit. But, on the
23 other hand, in view of the situation within Japan,
24 especially in view of the economic situation of our
25 country, there were many people who tried to think in

1 terms that were as negative as possible. Hemmed in
2 between these two extremes the government's policies
3 were very vascillating, and I felt strongly at the
4 time that the government's policies were too weak
5 and dilly-dallying.

6 Q Now, the Tri-Partite Pact had been signed;
7 there had been a move into Indo-China. What did you
8 want the government to do?

9 A My fervens was mainly cultural and ideolog-
10 ical, and I had the idea of advocating a policy to-
11 wards the Asian countries of force or of intention-
12 ally setting up ourselves against the European and
13 American powers. But, at the same time, in view of
14 the international situation then prevailing and of
15 Japan's national strength as compared to this inter-
16 national situation, I felt that we should not just sit
17 idly by, that we should not take a negative attitude.
18 As an example, I will tell you that my ideas were
19 quite different from those of the Indian leader, Gandhi,
20 and his Swaraj movement which was a negative movement
21 based on the principle of the Hindu religion. The
22 fundamental spirit which animated me was the spirit
23 of the foundation of the Japanese Empire, the spirit
24 of Bushido or the way of the warrior, and the spirit
25 of the doctrines of Buddhism of which I was an earnest

1 advocate, and I felt that even if Japan were to throw
2 herself away -- if all Japan were to be offered up as
3 a sacrifice, she should give up herself for the sake
4 of Asia.

5 Correction: Even if I, myself, gave myself
6 up as a sacrifice, I would give up my life for the
7 sake of the welfare and reconstruction of the Asiatic
8 people; and, even if all Japan was to be sacrificed,
9 she should give herself up for the sake of Asia.

10 THE MONITOR: In the spirit of the old saying
11 which goes something like this: that is, in order to
12 do a good deed, one may sacrifice his own life.

13 ACTING PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1045, a recess was
16 taken until 1100, after which the proceed-
17 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Brigadier Nolan.

4 BRIGADIER NOLAN: May it please the Tribunal,
5 I have only one or two matters to take up which will
6 not occupy very much time.

7 BY BRIGADIER NOLAN (Continued):

8 Q General MATSUI, on page 20 of your affidavit,
9 the English version, you make reference to the Ladybird
10 incident. Now yesterday you took some trouble to tell
11 us that you were responsible for all operational matters.
12 I suggest to you that the bombardment of a British gun-
13 boat, the Ladybird, comes within this classification.

14 A I also think so.

15 Q Then you were responsible for the bombardment
16 of that gunboat, were you?

17 A I take full responsibility without hesitation.

18 Q Now, I notice that you ordered the commander
19 of the 10th Army to tender his apology to the British
20 naval commander-in-chief, and I also observe that you
21 take no responsibility for the bombing of the Panay.
22 Why did you go to see Admiral Yarnell about that incident?
23 Was it not the proper function of the naval commander,
24 Japanese, to go to the U.S. Navy commander?

25 A The main purpose of my request for an interview

1 with Admiral Yarnell was discussion on American rights
2 and interests in the Shanghai area.

3 THE MONITOR: Shanghai-Nanking area.

4 A (Continuing) And even though it was the Navy
5 that was responsible for the bombing of the ship, it
6 was -- the Pancy was a ship belonging to the American
7 Navy and as I was directing joint army-navy operations
8 in that district I felt that, although it wasn't my
9 direct responsibility, it was in accordance with Bushido
10 to express at least a word of regret to Admiral Yarnell.

11 Q As a matter of fact, the naval units were under
12 your operational command, were they not?

13 A No, not so. They were entirely independent.
14 They were under the control of the Navy.

15 Q Who issued the operation orders which were
16 followed and carried out by those naval units?

17 A It was the then Vice Admiral HASEGAWA who was
18 then Commander of the Japanese Fleet in Chinese Waters.

19 Q And was he under your command for operational
20 purposes?

21 A No, not at all. He was independent.

22 Q Then how could you direct joint operations
23 without the Navy being under your operational control?

24 A In order to carry out joint operations with the
25 Navy, which was independent, we acted in cooperation

with each other.

1 Q Now at page 21, at the bottom, you speak of
2 a contribution of 10,000 yen to a Reverend Jackinough
3 in Shanghai. Where did the money come from?

4 A Well, 10,000 yen is such a small sum that I
5 was really quite ashamed, but since I did not possess
6 even that amount I used the money of the -- the official
7 funds of my headquarters.

8 Q Now in 1941 -- and this is the last topic I
9 want to discuss -- what was your attitude towards the
10 then negotiations with America?

11 A During the period when I was fighting in the
12 Shanghai-Nanking area against the Chinese the attitude
13 of the American officials was more or less neutral
14 and they did not, comparatively speaking, they did not
15 find much to criticize me. Correction: I could find
16 nothing criticizable in their attitude. And, therefore,
17 when I met Admiral Yarnell I told him that in the future
18 whatever incidents may break out in Shanghai and else-
19 where or in the Pacific we men in the fighting service
20 of Japan and America should cooperate with each other in
21 maintaining peace in the Pacific Area, and to this
22 sentiment of mine Admiral Yarnell fully agreed.

23 Q And was that your sentiment in 1941?

24 A No, that was my sentiment which I expressed
25

in 1938.

1 Q Well, what about 1941?

2 A I will have to go back slightly to explain this
3 point. In China, as I have just told you, I held such
4 sentiments towards America in 1938 -- correction: at
5 that time. But in January 1938 the President of the
6 United States made a speech in the course of which he
7 mentioned Japan's attitude towards Asia and actions in
8 Asia in language with which I found it difficult to
9 agree. I expressed at the time my dissatisfaction with
10 those statements to a correspondent of the New York
11 Times in Shanghai.
12

13 Q All I want you to tell me, General MATSUI, is
14 were you in favor of carrying on negotiations with the
15 United States in the year 1941.

16 A Of course it was my earnest desire that pending
17 issues between Japan and the United States be settled
18 through peaceful negotiations. But to tell you frankly
19 of what I thought of the situation at the time, I felt
20 that a Japan-American war had already broken out. It
21 was almost as if a war had already begun.

22 Q Now, you wrote an article in the July issue
23 of the Dai Asia Shugi in 1941. I will show you the
24 magazine. If you will please show the witness 2397.
25

(Whereupon, a document was handed to the

1 witness.)

2 Q (Continuing) At page 10, General MATSUI. You
3 wrote that article, didn't you?

4 A Yes.

5 BRIGADIER NOLAN: I offer for identification
6 the magazine Dai Asia Shugi for the month of July 1941.

7 CLERK OF THE COURT: The Dai Asia Shugi for
8 the month of July 1941 will receive exhibit No. 3500
9 for identification only.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 3500 for identification.)

13 BRIGADIER NOLAN: And I offer in evidence the
14 article appearing in that number of that magazine at
15 page 10.

16 ACTING PRESIDENT: It will be admitted.

17 CLERK OF THE COURT: Prosecution document 2397,
18 being an excerpt from the Dai Asia Shugi for July 1941,
19 will receive exhibit No. 3500-A.

20 (Whereupon, the document above re-
21 ferred to was marked prosecution's exhibit
22 No. 3500-A and received in evidence.)

23 BRIGADIER NOLAN: With the permission of the
24 Tribunal, I will read the exhibit. It is entitled
25 "The Settlement of the China Incident and the Problem

of the United States.

1 "I. A lukewarm argument for a compromise with the
2 United States is being put out from a certain quarter.
3 It is certainly difficult to comprehend when I hear that
4 today when the hostile feeling of the United States is
5 so acute, compromise with that country is being taken
6 up seriously even if it may be only in one quarter.

7 When a compromise with the United States is advocated
8 from one quarter, its influence at once extends to
9 Chungking, Nanking, Thailand, French Indo-China and
10 the Netherlands East Indies, and casts a gloomy shadow
11 upon our national policy. The reason why the Netherlands
12 East Indies suddenly took a firm attitude and the
13 Japanese-Netherlands Parley is on the brink of a break-
14 down, is solely due to the fact that the Netherlands
15 East Indies received the impression that Japan would
16 submit to the United States. The strengthening of the
17 war attitude by Chungking, the wavering of French Indo-
18 China, the uneasiness of Nanking, are all truly the
19 effect brought about by the lukewarm argument for a
20 Japanese-American compromise.

21
22 "In order to complete the Holy War, strengthen
23 the peoples' spiritual unit and make the Asiatic races
24 trustingly place their confidence in Japan, it is neces-
25 sary first of all to sweep away such a servile argument
for a compromise with the United States.

1 "II. The basis of the argument for a com-
2 promise with the United States seems to lie mostly
3 in the idea that by compromising with the United States
4 it would be possible to stop the aid to Chungking,
5 make them cooperate in the development of the Nanking
6 Regime, obtain American loans, and at the same time,
7 through American cooperation secure natural resources
8 in the Southern regions. However, this is a fantastic
9 mistake. In the same manner that America considers
10 England her first line of defense, she also considers
11 Chungking and Batavia her first line of defense.

12 "Therefore, from the start, there is no reason
13 for America seriously to consider a compromise with
14 Japan. If such a hint were dropped to someone, that
15 is a plan of the American authorities. America wants
16 to divert the fleet at Hawaii to the Atlantic Ocean
17 and enter the war, but if she does this, the Treaty
18 of the Tripartite Alliance will make itself felt.
19 The United States has neither the preparation nor
20 the power to wage a two-front operation. She wants
21 to somehow skillfully hold Japan down for awhile by
22 utilizing the groups in Japan advocating the status
23 quo, the pro-Anglo-American groups, and the groups
24 advocating dependency on the U.S. and Britain. She
25 wants to deceive Japan skillfully and prolong matters

1 without taking a definite step, and in the meantime
2 make full war preparations. This is their true inten-
3 tion. If we are fooled by such a trick it would be
4 disastrous. Needless to say, we will fall from a posi-
5 tion of certain victory to that of certain defeat.

6 "We absolutely must not come to a compromise
7 with the U.S. when things are what they are at this
8 time. If we do such a thing, the significance of the
9 China Incident will be lost. The significance of the
10 War for the construction of the New Order which aims
11 at the ideal of one family of Asiatic Nations, rehabil-
12 itation of Asia, and the liberation of Asia, will come
13 to nought. Not only that, but it will violate the
14 spirit of the Tripartite Alliance for which an Imper-
15 ial Rescript has already been promulgated. It would
16 become a retrogression of Japan's world policy. The
17 spirit of the Tripartite Alliance is the important
18 thing, rather than the wording. Its spirit enables
19 each nation to have its rightful place in the world.
20 Germany in Europe, and Japan in Asia, are both respec-
21 tively fighting the war for the establishment of a
22 New Order. How can we violate this lofty aim and inter-
23 national faith for the purpose of a momentary profit.

24 "As for Japan, she has work which must be
25 performed regardless of America's attitude. They are

1 the cutting of the route of aid to Chiang Kai-shek,
2 the elimination of enemy nations together with aid
3 to cooperating nations, and the strengthening of the
4 Tripartite Axis.

5 "The first is the economic development of China
6 in accordance with the Joint Declaration of Japan,
7 Manchukuo and China; joint national defense; and the
8 exchange of culture.

9 "The second is the economic development in
10 accordance with the economic agreement with French
11 Indo-China; and joint national defense.

12 "The third is the strengthening of friendly
13 relations with Thailand; and positive cooperation to
14 fulfillment of her /TN: Thailand's/ wish to recover
15 her lost territories.

16 "Persistency is a disease. If one is per-
17 sistent in the idea of wanting to somehow settle the
18 China Incident early, he becomes weak minded already
19 at that moment.

20 "A good soldier forgets his enemy. As long
21 as it was declared that Chiang Kai-shek will be ig-
22 nored, we might as well forget his existence. The
23 best would be to take the attitude of 'Are there such
24 things as the Chungking Regime and Chiang Kai-shek
25 still somewhere in China?' In reality, the immediate

1 enemies are now clearly Britain and the United States,
2 and the group of democratic nations. This is already
3 common knowledge of the people. If we now come to a
4 compromise with Britain and the United States, and
5 think of trying to settle the Incident through Anglo-
6 Saxon cooperation, how can we ever face the spirits
7 of the one hundred thousand departed heroes? Here,
8 in the name of the one hundred thousand dead heroes,
9 I absolutely oppose any compromise with the United
10 States. If in the near future the United States de-
11 clares war against Germany, our nation must also rise
12 unhesitatingly in accordance with the obligation of
13 the Tritartite Alliance. This is the attitude of the
14 nation of the Imperial Way /Kodo/ and of the Way of
15 the Samurai /Bushido/."

16 Which is all I have to say on cross-examination.

17 ACTING PRESIDENT: I have one question on
18 behalf of a Member of the Tribunal.

19 You stated on the 24th of November that
20 NAKAYAMA and HIDAKA reported atrocities committed by
21 Chinese troops in Nanking. How many cases were reported
22 to you?

23 THE WITNESS: Your Honor, are you referring
24 to outrages committed by the Chinese soldiers?

25 ACTING PRESIDENT: Yes.

MATSUI

33,910

1 THE WITNESS: I did not hear any specific
2 facts in regard to those. They only told me, con-
3 veyed to me of general rumors in regard to those
4 cases.
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1 ACTING PRESIDENT: All right. Another ques-
2 tion has just been handed me.

3 Do you know of any case in which a Japanese
4 soldier was punished for atrocities committed in Nanking
5 beyond mere reprimand by his superior? In other words,
6 do you know of anyone who was tried by court-martial
7 and given a sentence?

8 THE WITNESS: On this point, Mr. TSUKAMOTO,
9 who was formerly Judge Advocate of the Shanghai Expedi-
10 tionary Force, and Mr. OGAWA, who was formerly Judge
11 Advocate General of the Tenth Army, have testified
12 and according to their testimony the number of officers
13 and men who were tried before a court-martial and
14 convicted reached over one hundred.

15 ACTING PRESIDENT: You have no other knowledge,
16 then, about the number or the record of their trials?

17 THE WITNESS: I did hear at the time that two
18 or three cases were being tried in Shanghai. After
19 my return to Japan I tried to investigate the matter,
20 but as the documents in question had been burned and
21 were missing, I was unable to carry it any further and
22 I was unable to ascertain the actual figures.

23 ACTING PRESIDENT: My question was directed
24 to the atrocities committed in Nanking.

25 THE WITNESS: Yes. I was referring to Nanking

1 A I should not like to say specifically such
2 and such a person was pro-American or pro-British,
3 but I think it is unavoidable that those who had close
4 ties with Britain and America should be imbued with
5 pro-British or pro-American ideologies.

6 Q Were you acquainted with the views of the Lord
7 Keeper of the Privy Seal at that time?

8 A I have never talked directly with the Lord
9 Keeper on such problems so I do not know very much
10 about that.

11 Q Did you ever hear what his views were at that
12 time?

13 A Well, of course, people said all sorts of
14 things and there were all sorts of rumors, so I really
15 can't say anything for sure. But on the whole, from
16 my own observation, I felt that the Lord Keeper was
17 somewhat more pro-British and pro-American than such
18 people as myself. But at the same time, he was a
19 patriotic Japanese.

20 Q Thank you, General.

21 ACTING PRESIDENT: Mr. Mattice.

22 MR. MATTICE: No redirect. That concludes the
23 individual defense of this accused.

24 ACTING PRESIDENT: The accused will resume
25 his place in the dock.

(Whereupon, the witness was excused.)

1 ACTING PRESIDENT: We will now return to the
2 presentation of the defense of the accused OSHIMA.

3 Mr. Cunningham.

4 MR. CUNNINGHAM: We now offer the evidence of
5 defense witness TAKAHASHI. However, it is our under-
6 standing that the witness will not be called for cross-
7 examination and, therefore, we offer his affidavit,
8 defense document 2082, for the purpose of showing that
9 Mr. Himmler never contacted or had an interview with
10 Mr. OSHIMA at the time described in the Himmler
11 memorandum.
12

13 ACTING PRESIDENT: Is your number 2082 correct,
14 or 2083? You have both of them here.

15 MR. CUNNINGHAM: 2083.

16 ACTING PRESIDENT: Then, in the following page,
17 you refer to it as 2082.

18 MR. CUNNINGHAM: 2083, as I understand it, is
19 the affidavit of TAKAHASHI.

20 ACTING PRESIDENT: It will be admitted.

21 CLERK OF THE COURT: Defense document 2083
22 will receive exhibit No. 3501.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3501 and received in evidence.)

1 MR. CUNNINGHAM: I now read exhibit 3501,
2 skipping the formal parts, going to paragraph 2:

3 "I was on my post in Berlin as the Secretary
4 of Protocol for the Japanese Ambassador in Berlin from
5 about September, namely, immediately before OSHIMA,
6 the ex-Ambassador to Germany, took his post, until
7 January 1939.

8 "During this period all the conversations of
9 Ambassador OSHIMA with high German officials were
10 arranged beforehand by me as the Secretary of Protocol
11 as to their date, time, place, etc. As far as I
12 remember, there has never been any case in or about
13 January 1939 that Mr. Himmler requested of an inter-
14 view with the ex-Ambassador OSHIMA. No request was
15 also made by ex-Ambassador OSHIMA to see Mr. Himmler."

16 We now offer defense document 2084, the affi-
17 davit of Hiroshi SUGIURA, for the purpose of corrobo-
18 rating the testimony of TAKAHASHI.

19 ACTING PRESIDENT: It may be admitted.

20 CLERK OF THE COURT: Defense document 2084
21 will receive exhibit No. 3502.

22 (Whereupon, the document above
23 referred to was marked defense exhibit
24 No. 3502 and received in evidence.)
25

MR. CUNNINGHAM: I offer to read exhibit 3502,

starting at the second paragraph:

1 "I served as the Secretary of Protocol of
2 the Japanese Embassy in Berlin during January and
3 August 1939 as the successor of Mr. Michitoshi TAKA-
4 HASHI. During this period every contact of Ambassador
5 OSHIMA with outside persons including German high offi-
6 cials was arranged through me as in the case of my
7 predecessor. As far as I remember, Mr. Himmler never
8 asked through me for an interview with Ambassador OSHIMA.
9 No request was also made by Ambassador OSHIMA to see
10 Mr. Himmler."
11

12 Before offering the interrogation of Ambassador
13 Ott, the former German Ambassador to Japan, who was
14 later relieved by Ambassador Stahmer in 1943, we wish
15 to state that every effort was made to obtain the pre-
16 sence of Ambassador Ott as a witness before the Tribu-
17 nal; however, it was impossible to secure his presence
18 for cross-examination after repeated demands were made
19 for a subpoena for his presence.

20 Later efforts were made to secure his presence
21 as a defense witness by subpoena; however, the efforts
22 were fruitless. However, we now offer defense document
23 2475, which is an interrogation of Ambassador Ott,
24 together with his cross-examination, taken by me at
25 Shanghai as part of the evidence of the witness Ott,

1 for the purpose of explaining some German documents
2 referring to OSHIMA, and I offer to read the interroga-
3 tion -- only the direct examination.

4 ACTING PRESIDENT: It will be admitted in
5 evidence.

6 CLERK OF THE COURT: Defense document 2475
7 will receive exhibit No. 3503.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 3503 and received in evidence.)

11 MR. CUNNINGHAM: I am only offering the direct
12 examination, and Mr. Tavenner will no doubt offer the
13 cross-examination.

14 MR. TAVENNER: If the Tribunal please, I under-
15 stand that counsel proposes to read only the examination
16 on his interrogatories, but that the interrogatories
17 as a whole are introduced in evidence as this exhibit.

18 ACTING PRESIDENT: That is what I understood
19 when I admitted them.

20 MR. CUNNINGHAM: Yes, that is why I wanted to
21 correct that.

22 ACTING PRESIDENT: Only the direct examination
23 will be admitted.

24 MR. CUNNINGHAM: And if Mr. Tavenner wishes
25 to offer the cross-examination, then he may.

1 The purpose is that I want to waive the re-
2 direct examination, and I do not wish to offer the
3 entire document but only that part which I wish to
4 read into evidence.

5 ACTING PRESIDENT: The only trouble, as I see
6 it, is that if the prosecution does offer that part
7 in evidence, you have one document with two exhibit
8 numbers.

9 MR. CUNNINGHAM: The direct examination and
10 the cross-examination can be given the same exhibit
11 number, as far as I am concerned.

12 ACTING PRESIDENT: Proceed.
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1 "Question 1. Please state your name, address
and nationality.

2 "Answer: Eugen Ott.

3 "Question 2. Please state your official posi-
4 tions in Japan, and the periods during which you
5 held each of these positions.

6 "Answer: Please refer to curriculum vitae
7 given in SHIRATORI interrogation."
8

9 To prevent reading that we will emphasize
10 that merely when it is read in the SHIRATORI
11 interrogation.

12 "Question 3. Please read the attached document
13 No. 1, which is a copy of the prosecution's exhibit
14 508, tendered to the International Military Tribunal
15 for the Far East. Is it a telegram dated 27 October
16 1939, and addressed from Woermann to you as the
17 German Ambassador in Tokyo?

18 "Answer: Yes.

19 "Question 4. According to this telegram, 'the
20 Reich Foreign Minister requests to support in all
21 respects Ambassador OSHIMA, who after his return,
22 will work further for German-Japanese friendship.'

23 "During Mr. OSHIMA's stay in
24 Japan after his return (from December 1939 until
25 January 1941), did you or the German Embassy render

1 any help or support to Mr. OSHIMA in the sense
2 of this telegram?

3 "Answer: None whatever.

4 "Question 5. During the above mentioned
5 period, did Mr. OSHIMA ask you or the German
6 Embassy for any help or support in the sense
7 of this telegram?

8 "Answer: Never.

9 "Question 6. According to this telegram,
10 the Reich Foreign Minister requested you 'to
11 transmit in code and without changes telegrams,
12 delivered there by Mr. OSHIMA to the Reich
13 Foreign Minister personally and to take care
14 of the forwarding of letters addressed to the
15 Reich Foreign Minister, unopened insofar as
16 they are sealed, by sure and speedy route.'

17 "Did Mr. OSHIMA, during the
18 above mentioned period of his stay in Japan,
19 hand to you or the German Embassy any telegrams
20 or letter addressed to the Reich Foreign Minister?

21 "Answer: None at all.

22 "Question 7. Please read the attached
23 document No. 2 which is a copy of the prosecution's
24 exhibit No. 511 tendered to the IITFE. Is this
25 a telegram dated 23 February 1940 and addressed

1 from Stahmer and Ott to the State Secretary?

2 "Answer: Yes.

3 "Question 8. In this telegram it is stated that:

4 'After my arrival here I found such Japanese already
5 known to me as OSHI.A, SHIMAZUMI, TERAUCHI, ISHII,
6 etc., in an unchanged friendly attitude and ready
7 for every support.' I wonder why in this telegram,
8 which was signed jointly by Stahmer and you, the
9 singular personal pronoun 'I', 'my', 'me' was used.
10 Please explain the reason. (Please state what part
11 you played in the drafting of this telegram.)

12 "Answer: Drafted exclusively by Mr. Stahmer
13 and has my name attached only according to the
14 official regulations, in order to secure transmission
15 of the cipher telegram by the Japanese postal author-
16 ities.

17 "Question 10. Did OSHI.A, after this visit of
18 Mr. Stahmer to Japan, actively work for a closer
19 relation between Japan and Germany under the influence
20 of Mr. Stahmer?

21 "Answer: No active work by OSHI.A in this
22 respect as a result of Stahmer's influence.

23 "Question 11. Please read the attached document
24 No. 3, which is a copy of the prosecution's exhibit
25 No. 516 tendered to the IMPEL. Is this a telegram

1 dated 12 June 1940 and addressed from you to the
2 German Government?

3 "Answer: Yes.

4 "Question 12. In paragraphs 2-4 of this telegram
5 you stated that: 'each German and Italian move which
6 reveals the concern over American attitude in the
7 near future would only be a cue to the government and
8 the press which is close to it to make new courtship
9 of America. The government would further try, as in
10 the case of the Asama Maru, to impute to us the
11 intention of using Japan as a tool of our policy, an
12 argument which would not be ineffectual with the known
13 suspicion of the Japanese. The Embassy is still
14 endeavoring to stir up Japanese ill feeling against
15 America by influencing the press and leading political
16 personalities in a way deemed proper. I myself have
17 expressed the thought in many discussions with lead-
18 ing political personalities as, for example, KONOYE,
19 SUETSUGU and KUHARA that the interests and activity
20 of America . . . in the Pacific Area and therefore a
21 conflict between Japan and America is in the long run
22 unavoidable.
23

24 "In confidential cooperation
25 with the Embassy, ambassadors OSHIMA and SHIRATORI
and circles closely connected with them are operating

1 in the same direction.'

2 "With reference to this telegram,
3 you answered in May 1947, to the questions by Mr.
4 Charles B. Caudle, counsel for defendant SHIRATORI,
5 as follows:

6 "Question: I now hand you copy of Exhibit No.
7 516, dated 12 June 1940, from you to your government,
8 wherein you speak of Japanese-American relations among
9 other matters, and call your special attention to the
10 second, third and fourth paragraphs thereof. Will
11 you please explain in detail just what you mean by
12 the same covering historical background, Japanese
13 psychology and existing conditions at the time the
14 communication was sent (and a copy was handed to
15 witness.)
16

17 "Answer: The background of this report of
18 June 12th, 1940, is as follows:

19 "The collapse of France was obviously
20 imminent, and the British situation was very precar-
21 ious, centering around Dunkirk. The only effective
22 relief which might keep up the resistance power of
23 England, and work against the early settlement of war,
24 could come from the United States of America, and was
25 asked from them very urgently. Therefore the German
Government endeavored to hamper such a relief, and

1 considered as a useful way a continued tension
2 in the Pacific area, which might prevent the
3 United States from removing their attention and
4 fighting forces from the Pacific to the Atlantic.

5 "It was a complicated matter to advance
6 such a policy upon Japan because the Japanese
7 attitude was much divided, as it is given in
8 the first part of my report. In this situa-
9 tion I got instructions to back an Italian pro-
10 test obviously against a Japanese measure in
11 favor of the United States and contrary to the
12 Italian interests - I do not recall the case
13 exactly. When I present my objections to the
14 Reich Government's intentions I had to avoid
15 the permanent distrust of Ribbentrop that I was
16 inclined to block his aims. Therefore I stressed
17 in paragraphs Nos. 3 and 4 of my report that I
18 was working in my own way and pointed to the
19 cooperation of SHIRATORI and other Japanese
20 persons known to Ribbentrop in order to impress
21 him and to succeed in my objections.
22

23 "Question: Did you mean, in the fourth
24 paragraph of this document that the Embassy,
25 OSHIMA and SHIRATORI worked together in a
common program, based upon a mutual understand-

1 ing and common agreement, and if so what was the
2 aim?

3 "Answer: No, I did not mean that because
4 there was no such agreement.

5 "Question: What, if anything did SHIRATORI
6 do in this regard?

7 "Answer: SHIRATORI, as far as I know,
8 warned by private talks, and sometimes by the
9 Press, against the courting of the United States,
10 after they had enforced hard economic measures
11 upon Japan.

12 "Question: Was this a part of a concerted
13 plan taken by him, OSHIMA and you?

14 "Answer: No, it was not a common plan,
15 I had only private talks with each of them
16 separately, and OSHIMA kept himself much apart
17 from political activities during his stay in
18 Japan.

19 "Question: Were you ever in the company of
20 SHIRATORI and OSHIMA at the same time for the
21 purpose of carrying out this so-called political
22 cooperation?

23 "Answer: No, I was not.

24 "Question: Then why do you state that there
25 was close cooperation between you?

1 ing and common agreement, and if so what was the
2 aim?

3 "Answer: No, I did not mean that because
4 there was no such agreement.

5 "Question: What, if anything did SHIRATORI
6 do in this regard?

7 "Answer: SHIRATORI, as far as I know,
8 warned by private talks, and sometimes by the
9 Press, against the courting of the United States,
10 after they had enforced hard economic measures
11 upon Japan.

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13 plan taken by him, OSHIMA and you?

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16 separately, and OSHIMA kept himself much apart
17 from political activities during his stay in
18 Japan.

19 "Question: Were you ever in the company of
20 SHIRATORI and OSHIMA at the same time for the
21 purpose of carrying out this so-called political
22 cooperation?

23 "Answer: No, I was not.

24 "Question: Then why do you state that there
25 was close cooperation between you?

AFTERNOON SESSION

1
2 The Tribunal met, pursuant to recess, at
3 1330.

4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 ACTING PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: Resuming the direct
8 examination of Ott, question 13, page 5:

9 "Question 13: Did OSHIMA, or did he not,
10 tell you that he was doing actively something for
11 stirring up ill relations or feelings against
12 America?
13

14 "Did OSHIMA, or did he not, do something
15 for stirring up ill feeling against America?

16 "Answer: He did nothing but to share
17 the suspicions of the Japanese press concerning the
18 sincerity of the Anglo-Saxon Powers.

19 "Question 14: Whom do you mean concretely
20 by 'OSHIMA, SHIRATORI and circles closely connected
21 with them?'

22 "Answer: Groups of politically
23 interested individuals with whom they were associ-
24 ated.

25 "Question 15: Please read the attached

1 document No. 4, which is a copy of the prosecution's
2 exhibit No. 560 tendered to the IMTFE. Is this your
3 telegram, dated 13 December 1940, sent to the
4 German Government?

5 "Answer: Yes.

6 "Question 16: In this telegram it is
7 stated that 'For the previous history, I know that
8 Foreign Minister has repeatedly offered the
9 Ambassadorial post in Berlin to OSHIMA, who, however,
10 declined it in order to be able to continue his
11 politically active work for the Tripartite Pact
12 in Japan. Did OSHIMA, or did he not, during the
13 period from December, 1939, until 27 September 1940
14 (namely, from Mr. OSHIMA's return to Japan until the
15 conclusion of the Tripartite Pact) work actively for
16 promoting the conclusion of the Tripartite Pact?

17 "Answer: No, he did not have any part
18 in the preliminary negotiations or the conclusion of
19 the Tripartite Pact. He was not consulted. I am
20 sure of this.

21 "Question 17: During or prior to the
22 negotiations for the Tripartite Pact in September,
23 1940, did you (or Mr. Stahmer), or did you (or Mr.
24 Stahmer) not, ask Mr. OSHIMA for his advice or
25 opinion?

1 "Answer: I did not. Neither did Mr.
2 Stahmer.

3 "Question 18: Did OSHIMA during the
4 period from 28 September 1940 until January, 1941,
5 (namely, from the conclusion of the Tripartite Pact
6 until Mr. OSHIMA's departure for his post in
7 Germany) work politically for the Tripartite Pact.

8 "Answer: The only thing I can recall
9 was an interview with the press on the subject."

10 Mr. TAVENNER will complete the cross-
11 examination.

12 MR. TAVENNER: If the Tribunal please, I
13 offer in evidence the cross-interrogatories of Mr.
14 Ott, which appear in this document from pages 13 to
15 34, inclusive, and suggest that they be given the
16 number 3503-A.

17 ACTING PRESIDENT: How about pages 11 and
18 12?

19 MR. TAVENNER: That is correct. It is
20 from 11 to 34.

21 ACTING PRESIDENT: It will be admitted under
22 exhibit No. 3503-A.

23 CLERK OF THE COURT: Cross-interrogatory
24 for Mr. Eugen Ott will receive exhibit No. 3503-A.
25

(Whereupon, the document above

1 referred to was marked prosecution exhibit
2 No. 3503-A and received in evidence.)

3 MR. TAVENNER: If the Tribunal please, I
4 do not propose to read the cross-interrogatories
5 as the only purpose is in the introduction by Ott
6 of the affidavits, which are made a part of his
7 interrogatories. For instance, at page 12, you
8 will see in the last paragraph that the answer is:
9 "I herewith file in evidence paper No. 1 consisting
10 of a photostatic copy..." of a certain telegram.
11 And, a similar question is asked and answer is made
12 in the manner in which each of the three affidavits
13 are filed.

14 Therefore, each of the three affidavits
15 constitute part of the evidence and a part of the
16 document just admitted in evidence.

17 I will read a part of the first telegram,
18 which is a telegram of December 31, 1939, from Ott
19 to Berlin. It appear on page 18. I will read the
20 second paragraph:

21 "The Japanese Government is functioning in
22 this year-end under the heaviest foreign and domes-
23 tic political pressures. The three big problems of
24 the Japanese foreign policy; settlement of the
25 China question, understanding with America, and

1 adjustment with Russia, are yet to be solved. The
2 announcement of the opening of the Yangtse up to
3 Nanking did not bring about the change of the American
4 attitude which had been sought after. The American
5 Ambassador brought forward further demands with the
6 ostensible objectives of the independence and free
7 trade of China, at least of Central and South China.
8 He is said to have demanded especially: gradual
9 withdrawal of the troops except 8 garrisons to be
10 left in North China, guarantee for the open door and
11 the treaty rights of foreign nations accompanied by
12 the dissolution of the monopolistic Japanese
13 development company. The American attitude gave
14 rise to disillusion after the initial high expectations
15 which were nurtured by the intentional
16 optimism of the Government. In order to avert the
17 American pressure, the idea is being advocated of
18 late in some circles (group garbled) to solve the
19 China Incident by making concessions to Chiang Kai-
20 shek, to negotiate, if possible, with him concerning
21 peace by abandoning the KONOYE declaration, and to
22 utilize Wang Chiang-wei as a mere mediator for that
23 purpose. The Army, particularly the China Army,
24 was however till recently still determined to
25 establish a new central Government under Wang

1 adjustment with Russia, are yet to be solved. The
2 announcement of the opening of the Yangtse up to
3 Nanking did not bring about the change of the American
4 attitude which had been sought after. The American
5 Ambassador brought forward further demands with the
6 ostensible objectives of the independence and free
7 trade of China, at least of Central and South China.
8 He is said to have demanded especially: gradual
9 withdrawal of the troops except 8 garrisons to be
10 left in North China, guarantee for the open door and
11 the treaty rights of foreign nations accompanied by
12 the dissolution of the monopolistic Japanese
13 development company. The American attitude gave
14 rise to disillusion after the initial high expectations
15 which were nurtured by the intentional
16 optimism of the Government. In order to avert the
17 American pressure, the idea is being advocated of
18 late in some circles (group garbled) to solve the
19 China Incident by making concessions to Chiang Kai-
20 shek, to negotiate, if possible, with him concerning
21 peace by abandoning the KONOYE declaration, and to
22 utilize Wang Chiang-wei as a mere mediator for that
23 purpose. The Army, particularly the China Army,
24 was however till recently still determined to
25 establish a new central Government under Wang

1 Chiang-wei, although he (apparently the word
2 'demands' is omitted) a great amount of independence
3 and is always grappling with serious personnel
4 difficulties. The negotiations with Russia are re-
5 stricted on the details (settlement of the Manchurian
6 border, fishing treaties), without touching the
7 fundamental question of the Japan-Russian adjustment,
8 in particular the Russian attitude toward China.
9 Minor counter claims of Russia, such as payment of
10 the outstanding debt of 6 millions yen of the South
11 Manchurian Railway, are causing difficulties."

12 I omit reading now to the sentence beginning
13 in the third line on the last page of the telegram,
14 which is page 21 of the document:

15 "As the foreign political pressure and
16 serious internal differences continue to exist,
17 neither a coalition cabinet capable of action nor
18 the..." and here I pause to state that apparently
19 the word "complete" has been omitted in the trans-
20 lation. To the Language Pool, the word "complete"
21 is at the end of the third line that I was reading.
22
23
24
25

1 THE MONITOR: Mr. Tavenner, the document
2 that has been marked and handed to us evidently has
3 a very different prosecution number. If you would
4 kindly tell us the number, we will be able to locate
5 the Japanese document -- the corresponding one.

6 MR. TAVENNER: The defense document number
7 is 2475.

8 THE MONITOR: And from what English page?

9 MR. TAVENNER: Page 21, the fifth line from
10 the top of the page.

11 Let us omit the word "complete" rather than
12 use it this time, and refer it to the Language Section.
13 I believe it will save us time.

14 So that the sentence reads:

15 "...neither a coalition cabinet capable of
16 action nor the affiliation with any of the European
17 power-groups is to be expected for the time being.
18 According to the views of Ambassadors OSHIMA and
19 SHIRATORI, who are working hard for overthrowing the
20 present Cabinet, two or three more transit cabinets
21 will be needed in order to bring about a drastic
22 change of the course.

23 "Signed Ott."

24 I would like for the matter to be referred
25 to the Language Pool for the addition of the word

1 "complete" before the word "affiliation," if that is
2 correct.

3 ACTING PRESIDENT: It is so ordered.

4 MR. TAVENNER: I now desire to read the
5 second affidavit which appears at page 25. The date
6 is January 23, 1940. And I desire to read only the
7 last part of the first paragraph appearing on page 26,
8 beginning with the words "I am endeavouring..."

9 I was in error in referring to it as an
10 affidavit. It is, of course, a telegram.

11 "I am endeavouring as the highest objective
12 of my further action to achieve the release of the
13 arrested persons. I have already presented these
14 views for the time being unofficially to the Foreign
15 Ministry of Japan. Step-by-step-tactics alone are
16 in view of the Japanese mentality the only ones with
17 prospect of success; this also corresponds to the
18 urgent advices by ambassadors OS --" and the rest
19 of the word is not written out -- "and S-H-I-R --" and
20 the rest of the word is not written.

21 "Signed Ott."

22 I now desire to read the third and last
23 telegram, which appears at page 30 of the document:

24 "26 January 1940

25 "Most urgent!

1 "complete" before the word "affiliation," if that is
2 correct.

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5 second affidavit which appears at page 25. The date
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16 in view of the Japanese mentality the only ones with
17 prospect of success; this also corresponds to the
18 urgent advices by ambassadors OS --" and the rest
19 of the word is not written out -- "and S-H-I-R --" and
20 the rest of the word is not written.

21 "Signed Ott."

22 I now desire to read the third and last
23 telegram, which appears at page 30 of the document:

24 "26 January 1940

25 "Most urgent!

"For the Foreign Minister

1 "I hear confidentially that the Japanese
2 Foreign Office instructed Ambassador KURUSU to ask
3 the German Foreign Office to put off the planned
4 visit of Duke of Coburg till March or better April,
5 on the ground that the time is not sufficient to
6 prepare for such a high visit, and all the influential
7 political persons are being occupied too much with
8 the Diet. As no special missions from any foreign
9 countries have been considered for the occasion of
10 the national foundation anniversary, the Foreign Office
11 asked to call the visit of Duke of Coburg as friendship
12 mission. I expressed to a confident my personal
13 anxiety that the Japanese conduct could cause strong
14 annoyance in Berlin. I see the deeper reason for this
15 strange attitude in the petty apprehension of the
16 Japanese Government that the exclusive representation
17 of Germany by a special mission might damage the
18 neutral status of Japan in the eyes of third powers.
19 In addition, the court circle is strongly agitated
20 by the Anti-British wave caused by the 'Asamamaru'
21 incident, and fears the intensification of the pro-
22 German feeling of people by the visit of the Duke at
23 the present moment. The fact that, as I learned most
24 confidentially the Government considered shortly
25

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2 Foreign Office instructed Ambassador KURUSU to ask
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4 visit of Duke of Coburg till March or better April,
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7 political persons are being occupied too much with
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10 the national foundation anniversary, the Foreign Office
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17 of Germany by a special mission might damage the
18 neutral status of Japan in the eyes of third powers.
19 In addition, the court circle is strongly agitated
20 by the Anti-British wave caused by the 'Asamamaru'
21 incident, and fears the intensification of the pro-
22 German feeling of people by the visit of the Duke at
23 the present moment. The fact that, as I learned most
24 confidentially the Government considered shortly
25

1 before the Asama case to prepare a pompous reception
2 for the Duke as the guest of the state, justifies
3 also this assumption.

4 "Ambassador OSHIMA also pointed to the Anti-
5 British movement as the main reason for the sudden,
6 a formally most unpleasant, retreat of the Japanese
7 Government from the promise apparently given in
8 Berlin. As a matter of fact, he sees, however, in
9 this postponement of the journey possible advantage
10 for our policy, as the Anti-British movement will be
11 enabled to develop to the full extent, if it is not
12 burdened with the suspect of being under German
13 influence. According to an information received just
14 now, the movement is spreading to broad party circles
15 and could result in bitter fights in the Diet in
16 February and March, probably bringing about the collapse
17 of the Government. OSHIMA recommends to postpone
18 the journey till April-May, but to reserve the decision
19 as to the final time-table.

20 "I also propose to examine the following
21 itinerary: Arrived in Japan a week later, immediate
22 continuation of the trip to America and friendship
23 visit to Japan on the way back. I would be grateful
24 in any case, for the realizing of Stahmer's information
25 journey. Ott."

That is all.

1 ACTING PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: Before offering the next
3 document I should like to clarify a matter. I only
4 wish to introduce or offer the document with the
5 exception of a few sentences which I do not wish to
6 include and I would like to have an understanding that
7 if the document is accepted, it is accepted with the
8 understanding that those few sentences should be
9 deleted.

10 ACTING PRESIDENT: Admitted under those
11 conditions.

12 MR. TAVENNER: If the Tribunal please, there
13 was a rebuttal interrogatory taken to the cross-
14 interrogatory of Eugen Ott, which was processed and
15 admitted in evidence. I cannot insist that counsel
16 read it, but I want merely to call the Tribunal's
17 attention to the fact that such a cross or rebuttal
18 interrogatory is a part of this document.

19 ACTING PRESIDENT: You mean part of the
20 document, exhibit 3503-A.

21 MR. TAVENNER: Part of document 3503. But
22 by the manner in which 3503 was admitted in evidence,
23 there could be some doubt as to whether or not it
24 carried with it the remaining part of that document.
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1 So I think the matter could be cleared up by declaring
2 it to have been admitted as a part of document 3503
3 and then leave counsel to his own choice as to
4 whether he reads it.
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1 ACTING PRESIDENT: He referred to the inter-
2 rogatory on pages 15 and 16, I believe.

3 MR. TAVENNER: No, sir, it is at the very
4 end of the document and consists of nine pages separate-
5 ly numbered from 1 to 10.

6 ACTING PRESIDENT: We don't seem to have that;
7 at least I can't find it.

8 MR. TAVENNER: I desire to apologize to the
9 Court for taking this time. The part that I thought
10 had been processed apparently has not been. I have
11 been given the additional set of questions constitut-
12 ing the rebuttal to the cross-interrogatories, but
13 apparently it was not processed. I assumed that my
14 copy was the same as the processed copy. In the
15 light of that situation I desire to ask the privilege
16 of introducing that rebuttal interrogatory in behalf
17 of the prosecution if it is not introduced by the de-
18 fense. These interrogatories were taken pursuant to
19 an agreement, and now I find for the first time this
20 moment that only part has actually been reproduced
21 for admission in testimony.

22 ACTING PRESIDENT: Is there any objection
23 to that on the part of the defense?

24 MR. CUNNINGHAM: I wish to clear up the
25 matter specifically. That was the reason I made the
~~opening remark I made, that I was only introducing~~

1 as part of the evidence in this case the direct
2 examination of the witness Ott, and I deemed it
3 my privilege to waive the introduction of the
4 redirect examination or the cross-interrogatories if
5 I didn't see fit to introduce them as a part of the
6 record in this case.

7 That is the first suggestion.

8 As to the second suggestion of Mr. Tavenner,
9 that he offers in evidence as part of his case the
10 cross-interrogatories, or the redirect examination as
11 I chose to call it, I don't feel that he should be
12 the one at this time to offer evidence in the prose-
13 cution's part of the case.

14 On the third proposition, I only processed that
15 part which I proposed to introduce as evidence in this
16 case and did not feel under any obligation to process
17 the part which I chose to waive.

18 ACTING PRESIDENT: But you did process what
19 is now exhibit 3503-A.

20 MR. CUNNINGHAM: I admit that we processed
21 the direct examination and Mr. Tavenner's cross-
22 examination, but we did not process the redirect ex-
23 amination. I felt under no more obligation to intro-
24 duce the redirect examination here as part of the
25 record than I would feel required to redirect examine

1 as part of the evidence in this case the direct
2 examination of the witness Ott, and I deemed it
3 my privilege to waive the introduction of the
4 redirect examination or the cross-interrogatories if
5 I didn't see fit to introduce them as a part of the
6 record in this case.

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13 cution's part of the case.

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15 part which I proposed to introduce as evidence in this
16 case and did not feel under any obligation to process
17 the part which I chose to waive.

18 ACTING PRESIDENT: But you did process what
19 is now exhibit 3503-A.

20 MR. CUNNINGHAM: I admit that we processed
21 the direct examination and Mr. Tavenner's cross-
22 examination, but we did not process the redirect ex-
23 amination. I felt under no more obligation to intro-
24 duce the redirect examination here as part of the
25 record than I would feel required to redirect examine

1 the witness if he were actually present.

2 ACTING PRESIDENT: When you take interroga-
3 tories by commission or otherwise, it is customary
4 for all the interrogatories to go in.

5 MR. CUNNINGHAM: That is not my understanding,
6 your Honor. It is an optional matter for you to
7 introduce at any time you see fit any part or all of
8 a deposition, and you don't have to introduce it at
9 all unless you see fit. That is my understanding of
10 the practice.

11 ACTING PRESIDENT: You don't have to intro-
12 duce it at all, but, on the other hand, if you do not
13 introduce it the other side has the right to intro-
14 duce it once the interrogatories have been taken
15 and returned to court.

16 MR. CUNNINGHAM: That is not my understanding.
17 any more than it would be the right of the prosecution
18 to make the witness theirs after the close of the
19 prosecution's case. The only condition under which
20 I consider this could be made part of the prosecution's
21 case is if and in the event there is permission to
22 put in rebuttal evidence. That is my understanding.
23 I may be wrong about it, but that is the reason why
24 I did not introduce the redirect examination, because
25 I did not see fit to do so.

1 MR. TAVENNER: If it please the Tribunal,
2 there would be no quarrel with counsel if he had
3 elected not to introduce any part of the interroga-
4 tion of Eugen Ott. But certainly the practice is
5 not recognized in any court of admitting part of an
6 interrogatory and voluntarily withholding or with-
7 drawing another part.

8 ACTING PRESIDENT: The majority of the Court
9 holds that the redirect interrogatory, or whatever
10 you may call it, shall be admitted in evidence at
11 such time as you may present it. In fact, that opinion
12 seems to be unanimous.

13 MR. TAVENNER: Do I understand the ruling to
14 mean it is admitted as part of document 3503, which
15 is the defense exhibit, as distinguished from the
16 prosecution presenting it as its own exhibit?

17 ACTING PRESIDENT: Unless there is some other
18 objection to it, I would suggest that when admitted
19 it be given the number 3503-B.

20 MR. CUNNINGHAM: There is no objection as
21 far as what number to give it goes as long as there
22 is no confusion about the thing, with the understand-
23 ing that only that part of the document that is offered
24 is to be part of the record if the document is accept-
25

1 ed in evidence.

2 I now tender in evidence defense document
3 2858, which is a voluntary statement made by Ambassador
4 Ott at Peiping, in explanation of his position
5 in Japanese-German relations and his interest and
6 his participation. This statement covers many
7 matters about which the witness would be required to
8 testify if he were present; and the strictly relevant
9 subjects are so interwoven with the few irrelevant
10 matters that we ask the Court's indulgence in permit-
11 ting us to read the entire statement, with the ex-
12 ception of course noted, in order to get the full
13 context and meaning. Since this statement was not
14 obtained by the counsel for the defense, it is neither
15 in the form nor strictly in the substance which we
16 would desire. However, it is the best available
17 information we have, and since we have done everything
18 possible to obtain the personal appearance here of
19 Ambassador Ott, we feel that this statement should be
20 admitted for what it is worth in our defense.

21 We now offer defense document 2528 excepting
22 the last two sentences of paragraph 3, page 4, start-
23 ing after the words "Chiang Kai-shek" to the end of
24 that paragraph.

25 ACTING PRESIDENT: Where is that on page 4?

1 MR. CUNNINGHAM: After the word "Chiang Kai-
2 shek" in the third paragraph to the end of the para-
3 graph.

4 ACTING PRESIDENT: That means the rest of
5 the affidavit, then, doesn't it?
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1 MR. TAVENNER: If the Tribunal please, objec-
2 tion is made to the introduction in evidence of this
3 document in its entirety. It is a statement prepared by
4 Eugen Ott, depicting his personal history prior to his
5 dispatch to Japan in 1933, the main phase of his
6 military work in Japan from 1933 to 1938, and his
7 activity as German Ambassador in Tokyo. It is very
8 general in form and certainly in no sense could it be
9 said to be a proper document in the individual phase of
10 the accused OSHIMA, and strange to say, with the excep-
11 tion of the very sentence which counsel desires to
12 delete, at no point in this document is the name
13 OSHIMA used, with the exception of that one sentence
14 which counsel desires to delete.

15 ACTING PRESIDENT: I notice it is dated 15
16 November 1945.

17 MR. TAVENNER: In China.

18 ACTING PRESIDENT: In China. I referred to it
19 as an affidavit, but it does not seem to be an affi-
20 davit.

21 MR. TAVENNER: No, sir. It is a voluntary
22 statement. The only direct reference to OSHIMA in this
23 statement is on page 10 in connection with the no-
24 separate-peace pact of December 11, 1941, in which he
25 says, "I received, as far as I remember, the draft of

1 an agreement drawn up by the German Government, which
2 was presumably agreed upon with the Japanese officials
3 in Berlin." This is not a disputed passage.

4 ACTING PRESIDENT: We have no page 10 in our
5 document here.

6 MR. TAVENNER: That means that the copy given
7 me was numbered differently and processed differently
8 than the one that has been circulated in the Tribunal.

9 ACTING PRESIDENT: This is supposed to be de-
10 fense document 2858.

11 MR. TAVENNER: The two documents are different.
12 It would be rather hard for me to find it quickly, but
13 that is the only indirect reference to OSHIMA in this
14 document.

15 Here, I have found it; it is on page 7 of this
16 document. The sentence next to the last of the first
17 paragraph beginning on page 7. That is a point which is
18 not disputed in this case; though other grounds and
19 rulings of the Tribunal could probably be assigned for
20 the rejection of this document, it is believed that it
21 is sufficient to place the objection squarely upon the
22 point that it does not involve the individual defense
23 of this accused. Certainly if the document is to be
24 admitted, that sentence, which is the only one naming
25 this accused, should be admitted.

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21 is sufficient to place the objection squarely upon the
22 point that it does not involve the individual defense
23 of this accused. Certainly if the document is to be
24 admitted, that sentence, which is the only one naming
25 this accused, should be admitted.

1 ACTING PRESIDENT: What the Tribunal wants to
2 know is that this statement having been made in Novem-
3 ber 1945, and interrogatories having been had since that
4 time, why the contents of this statement were not in-
5 cluded and covered by the interrogatories?

6 MR. CUNNINGHAM: Your Honor, I will have to
7 give you just a very brief history of that. At the time
8 the interrogatories were taken we did not have this
9 statement, did not know it existed, and it was dis-
10 covered after the interrogatories were taken.

11 ACTING PRESIDENT: He didn't give it to the
12 prosecution, did he?

13 MR. CUNNINGHAM: Yes, he gave the statement to
14 the CIC in Peiping.

15 Now, I made an application for an order of the
16 Tribunal for the prosecution to turn over to me the
17 interrogation of Ambassador Ott, and I obtained that
18 interrogation, and in that interrogation, just a week or
19 ten days ago, a reference was made to this statement.

20 Now, in the second place, the interrogations
21 contain hundreds of pages and go into fine detail con-
22 cerning the matters which are touched here briefly, and
23 that is the reason I have selected this document in-
24 stead of asking that the interrogations be processed
25 which went into such fine detail.

1 Now, I agree with Mr. Tavenner in this, that
2 this is a general statement, and if I had had the
3 statement at the time the Tripartite negotiations were
4 presented to this Tribunal, I would have introduced it
5 then because it is of a more general nature, but con-
6 sidering the fact that Mr. OSHIMA is a little more
7 vitally concerned in this statement and in the relations
8 of Japan and Germany, I considered that this was the
9 next best appropriate time to present it.

10 Now, the third point is that if there had been
11 any possibility of having the subpoena honored and
12 Ambassador Ott brought here personally, there would be
13 no necessity for me to ask that this secondary evidence
14 be introduced here, but this document does fill in a
15 great many of the gaps which are left from the telegrams
16 and intermingled communications of Ambassador Ott to his
17 country.

18 Now, on the one reference that I make to the
19 provision that it should be eliminated from the document,
20 I wish to state that the reason we are not offering
21 that sentence to the Tribunal is because it is not a
22 statement of fact; it is far from the fact. I cannot
23 make an offer of evidence, knowing that it is not a
24 statement of the fact, and I know from the other evidence
25 or am satisfied in my mind that that statement is not a

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21 that sentence to the Tribunal is because it is not a
22 statement of fact; it is far from the fact. I cannot
23 make an offer of evidence, knowing that it is not a
24 statement of the fact, and I know from the other evidence
25 or am satisfied in my mind that that statement is not a

1 statement of the fact; it is an opinion of fact, a
2 surmise and an assumption on the part of the party who
3 stated it, and therefore I do not wish to mislead the
4 Tribunal on the matter.

5 And lastly, the document does not justify all
6 this argument. If I had thought that we would have so
7 much discussion about it, for what it is worth and the
8 gaps that it fills in, it doesn't justify the time that
9 we have spent arguing it, but I would like to have it
10 accepted for what it is worth.

11 Now, one last remark ---
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1 ACTING PRESIDENT: You just made the remark
2 that we have wasted time arguing these procedural
3 questions. The Court has felt for some time and has
4 suggested that we are spending too much time upon
5 objections upon points of evidence or the admission
6 of documents.

7 By a majority the objection is sustained.

8 MR. CUNNINGHAM: The affidavit of Shinichi
9 TANAKA is now presented for the purpose of denial of
10 any participation on the part of OSHIMA in the
11 operational plans for the Pacific War. This is
12 defense document 2542 and I ask that the witness
13 TANAKA be called.

14 MR. TAVENNER: If the Tribunal please, as
15 I do not propose to cross-examine this witness some
16 time can be saved if he not be called.

17 ACTING PRESIDENT: Under those circumstances
18 there is no necessity for calling him unless you have
19 some further questions to ask.

20 MR. CUNNINGHAM: No, your Honor, I had no
21 idea that he would not be called for cross-examination.

22 I offer defense document 2542, the affidavit
23 of TANAKA.

24 ACTING PRESIDENT: It will be admitted.

25 CLERK OF THE COURT: Defense document 2542

1 will receive exhibit No. 3504.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3504 and received in evidence.)

5 MR. CUNNINGHAM: I shall start to read the
6 second paragraph, skipping the formal parts:

7 "I was from October 1940 until 7 December
8 1942 the Director of the First Division of the
9 General Staff in charge of operational matters.

10 "2. I testified last time before this
11 Tribunal that in the peace time operational plan of
12 1941 no concrete plans for attacking Hongkong,
13 Singapore, etc. were included. Besides this peace
14 time operational plan the Japanese Army made during
15 the period between January and May 1941 no concrete
16 plans or preparations for occupying Singapore, Hong-
17 kong and the Philippines or one of these places. No
18 study worth mentioning was even made.

19 "3. The General Staff received neither
20 from Germany nor from Mr. OSHIMA directly or indirectly
21 any suggestions or influences in drafting and deciding
22 the operational plans or any one of them including
23 the attacks on British Malay, Singapore, Hongkong,
24 the Philippines, Netherlands East Indies and the
25 Southern Regions. Nor was there any case that the

1 General Staff concerning these plans or any one of
2 them asked directly or indirectly through Ambassador
3 OSHIMA for opinion, suggestions or assistance from
4 Germany. Also, Mr. OSHIMA never recommended to the
5 General Staff preparations or carrying out of these
6 operational plans or any one of them."

7 Mr. SHIMANOUCHI will introduce the next
8 witness.

9 MR. SHIMANOUCHI: I call KONATSU, Mitsuhiro
10 as my next witness.

11 MR. TAVENNER: If the Tribunal please, the
12 prosecution will not cross-examine this witness and
13 he need not be called as far as we are concerned.

14 ACTING PRESIDENT: Unless you have some fur-
15 ther questions to ask outside the affidavit there is
16 no need for calling the witness.

17 MR. SHIMANOUCHI: As I have no additional
18 questions I shall not call the witness, your Honor.

19 I offer defense document 2783 in evidence.

20 ACTING PRESIDENT: It will be admitted.

21 CLERK OF THE COURT: Defense document 2783
22 will receive exhibit No. 3505.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3505 and received in evidence.)

MR. SHIMANOUCHI: I shall read defense

Document 2783 which is now Court exhibit 3505:

1 "I, KOMATSU, Mitsuhiro, state under oath as
2 follows:

3 "1. My present address is No. 1086 Yamada-
4 machi, Kami-gun, Kochi Prefecture.

5 "2. I was appointed in the winter of 1940
6 the Assistant Military Attache and concurrently the
7 Assisting member of the Tripartite Mixed Commission
8 Japan-Germany-Italy in Berlin. I arrived in Berlin
9 via Siteria together with Ambassador OSHIDA in Feb-
10 ruary 1941. I was appointed the Military Attache and
11 concurrently the member of the above mentioned Commis-
12 sion at the beginning of 1943 succeeding Lt. General
13 BANZAI and stayed on my post until the end of the war.
14 During the tour of my duty in Berlin I was at first
15 Major General, and later Lt. General.

16 "3. Japanese members of the Tripartite Mixed
17 Commission in Berlin based on the Tripartite Pact were
18 Ambassador OSHIDA for the General, Lt. General BANZAI
19 and Vice Admiral NOMURA for the Military and Minister
20 MATSUSHITA for the Economic Commission. These commis-
21 sions were never convened until the outbreak of the
22 Pacific War. Even after its outbreak they met only
23 two or three times, and were never convened after the
24 beginning of 1943 when I became a member of the mili-
25

1 tary Commission succeeding Lt. General BANZAI. I heard
2 from Lt. General BANZAI that during the meetings there
3 were only propagandistic reports on the past war
4 situation by the German side.

5 "4. Shortly after the outbreak of the Pa-
6 cific War, the Military Agreement between the three
7 countries of Japan, Germany, and Italy was concluded
8 in January 1942. This was a purely Military Agreement
9 concerning matters of the High Command. As far as I
10 know and heard from late Military Attache BANZAI,
11 Ambassador OSHIMA was in fact not at all connected
12 with this matter.

13 "5. Ambassador OSHIMA told and consulted the
14 military and naval attaches and other higher Embassy
15 officials whenever he received instructions from
16 Tokyo or had talks with German leaders. He was often
17 telling us that because very little information was
18 received from the Japanese Government, it was regret-
19 table that he could not know the policy of the Japane-
20 ese Government, and that he could not talk serious
21 matters with the German side as especially he did not
22 know the future plan of Japan. What Ambassador OSHIMA
23 thought most important on his arrival in Berlin was,
24 as I heard from him, to find out what perspective or
25 plan Germany had for the future of the European War,

1 and especially, whether and when she was in fact going
2 to carry out landing operations against England and
3 what preparations she was making.

4 "6. I heard from Ambassador OSHIMA that
5 Germany desired Japan to attack Singapore in the
6 spring of 1941, but I learned from him that on this
7 Singapore question he was only expressing his person-
8 al opinion on the basis of the military common sense
9 he acquired as an ex-soldier and he did not broach
10 this question on his own initiative. This Singapore
11 question was brought out only before the outbreak of
12 the German-Russian war, and thereafter Germany
13 changed her mind and asked Japan to attack Soviet
14 Russia, according to what I heard from Ambassador
15 OSHIMA.

16 "7. I was allowed to see important telegrams
17 Ambassador OSHIMA sent to Tokyo prior to or after the
18 dispatch. I never read a telegram by which Ambassador
19 OSHIMA as his own opinion recommended such attacks
20 to Tokyo.

21 "8. Very little information was received
22 from Tokyo as mentioned above. We in Berlin, includ-
23 ing Ambassador OSHIMA, received almost no communica-
24 tion concerning the Japanese-American negotiations
25 and could not understand the situation in Japan well.

1 Ambassador OSHIMA expressed his opinion, even when
2 he received the instructions to negotiate for the
3 Non-Separate Peace Treaty immediately before the
4 outbreak of the war; that war would not be opened
5 between Japan and the United States. Such being the
6 circumstances, I was very much surprised when I heard
7 the attack on Pearl Harbor by foreign radio broadcast.
8 Ambassador OSHIMA and all the others who gathered at
9 the Embassy shortly thereafter expressed to each
10 other their greatest surprise, also."

11 Signed "KOMATSU, Mitsuhiko

12 "At Tokyo, 31 March 1947."

13 Mr. Cunningham will continue with the pre-
14 sentation of evidence.

15 ACTING PRESIDENT: Mr. Cunningham.

16 MR. CUNNINGHAM: In the absence of the
17 witness TATSUMI, I offer in evidence defense document
18 2662, his affidavit.
19

20 ACTING PRESIDENT: It will be admitted in
21 evidence.

22 CLERK OF THE COURT: Defense document 2662
23 will receive exhibit No. 3506.

24 (Whereupon, the document above
25 referred to was marked defense exhibit
No. 3506 and received in evidence.)

ACTING PRESIDENT: You will read the affidavit, after the recess.

We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Cunningham.

MR. CUNNINGHAM: I now read exhibit 3506.

"I, TATSUMI, Eiichi, being first duly sworn on oath, do hereby depose and say:

"1. That my military career was outlined in my previous affidavits, offered in evidence in the DOHIIHAKA case, and will not be repeated here. I was Military Attache to Great Britain in 1936 to 1938 and 1939 to 1942, and had been Assistant Military Attache from 1930 to 1933. I was returned to Japan by repatriation boat in September 1942 at the time when the British Embassy Staff were repatriated to England in exchange. Mr. KAMIMURA was the Charge d'Affaires and head of the Embassy group at the time of our return, having succeeded Ambassador SHIGEMITSU, who returned in May or June, 1941, as head of the mission.

1 "2. During my tour of duty as Assistant and
2 as Military Attache in London I was responsible direct-
3 ly to the Chief of the Imperial General Staff and was
4 only related to the ambassador in matters of confer-
5 ence. Under the Japanese military system the military
6 attache is appointed, directed and supervised and re-
7 moved by the military authorities and is not under
8 the authority of the ambassador to whom he is attached.

9 "3. One of the major factors in the appoint-
10 ment of a military attache to a foreign government
11 is the language ability of the officer to be appointed.
12 In my case my language instruction was concentrated
13 on English and my only foreign assignments were in
14 London.

15 "4. At the time of the close of the Pacific
16 War I was a lieutenant general in the Japanese army.

17 "TATSUMI, Eiichi."

18 Now, Mr. SHIMANOUCHI will present the next
19 witness.

20 MR. SHIMANOUCHI: I call YOKOI, Tadao, as our
21 next witness.
22
23
24
25

1 T A D A O Y O K O I, called as a witness on behalf
2 of the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 BY MR. SHIMANOUCHI:

6 Q What is your name and address, Witness?

7 A YOKOI, Tadao, 2327 Midori-ga-oka, Meguro-ku,
8 Tokyo.

9 MR. SHIMANOUCHI: May the witness be shown
10 defense document No. 2671?

11 (Whereupon, a document was handed to the
12 witness.)

13 Q Is that your affidavit?

14 A Yes.

15 Q Are the contents thereof true and correct?

16 A Yes.

17 MR. SHIMANOUCHI: I offer in evidence defense
18 document 2761.

19 ACTING PRESIDENT: It will be admitted in
20 evidence.

21 CLERK OF THE COURT: Defense document 2761 will
22 receive exhibit No. 3507.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3507 and received in evidence.)

1 Mr. SHIMANOUCHI: I read court exhibit 3507,
2 omitting the formal parts.

3 "1. I was appointed in September 1940
4 Naval Attache to the Japanese Embassy in Germany and
5 went to Berlin via Siberia. At that time I was a
6 captain in the navy. I was promoted in November 1940
7 to rear admiral and stayed in Berlin until October
8 1943 when I left for Japan.

9 "2. In or about February or March 1943
10 Vice Admiral NOMURA and I learned from Ambassador
11 OSHIMA of an offer of Hitler to transfer two submarines
12 to Japan for the purpose of a study by the Japanese
13 navy. Ambassador OSHIMA told us that no conditions
14 were attached to this offer. Thereafter, a telegraphic
15 instruction was received by Vice Admiral NOMURA from
16 the central naval authorities in Tokyo to the effect
17 that the Japanese navy was very much pleased to accept
18 this offer. Ambassador OSHIMA, upon our request, saw
19 Foreign Minister Ribbentrop and conveyed this acceptance
20 by the Japanese navy, and we understood that no special
21 conditions were attached by the German side also on
22 this occasion. The practical procedure of transfer
23 was thereafter completed between the Japanese and the
24 German navies, and during these negotiations also no
25 strings were attached to the matter.

1 "3. In connection with this transfer of
2 submarines I never heard from Ambassador OSHIMA, nor
3 from the German side or anybody else about attacking
4 or annihilating crews of torpedoed merchant ships.

5 "I might add that I never heard from Ambassador
6 OSHIMA, nor from anybody else, that Germany adopted
7 the policy of attacking or annihilating crews of
8 merchant ships torpedoed by submarines.

9 "YOKOI, Tadao."

10 I forgot to state that in the fourth line of
11 paragraph 1, November 1940 should read November 1942.
12 This is a typographical error in the English text,
13 and the Japanese original states 1942.

14 With the permission of the Tribunal, I
15 should like to conduct a few additional direct examina-
16 tion.

17 ACTING PRESIDENT: Proceed.

18 Q About the end of November 1941, or about the
19 beginning of December of the same year, was OSHIMA
20 in Berlin or was he in some other place?

21 A Towards the end of November Ambassador OSHIMA
22 left Berlin for Vienna, together with other members of
23 the embassy, to attend the Mozart Festival.

24 MR. SHIMANOCHI: I have no other question
25 in direct. The prosecution may cross-examine the witness.

ACTING PRESIDENT: Mr. Tavenner.

CROSS-EXAMINATION

1 BY MR. TAVENNER:

2 Q Mr. YOKOI, at the time of the transaction
3 relating to the delivery of the two German submarines
4 to Japan were you, as a naval military attache, a
5 member of the joint military commission in Berlin
6 established under the provisions of the Tripartite Pact?

7 A Yes.

8 Q Vice Admiral NOMURA, who was also a member of
9 the commission, and you arranged the details for the
10 transfer of the two submarines, is that not true?

11 A We consulted with the German Navy in regard to
12 the details.

13 Q Did this military commission frequently
14 discuss formally or informally the problems relating
15 to the transfer of the submarines and other military
16 matters?

17 A This matter was not settled by the military
18 commission.

19 Q But the two of you who were on the military
20 commission did confer regarding the matter?

21 A We did consult on the matter but Vice Admiral
22 NOMURA consulted on this matter in his capacity as the
23 highest naval representative in Berlin and I in my
24 capacity as naval attache.
25

1 Q You and Admiral NOMURA who were members of this
2 commission, did you meet frequently and discuss military
3 matters as a commission?

4 A No, we did not consult on military matters.

5 Q Well, certainly military matters must have been
6 discussed between the two participating powers under
7 the Tripartite Pact. Do you mean to say that the com-
8 mission, military commission, established for the purpose
9 of discussing military matters did not meet and discuss
10 them?

11 MR. SHIMANOUCHI: I object to this question on
12 the ground that this, the present affidavit, does not
13 contain anything in connection with the Tripartite Pact.
14 Accordingly the question of the prosecutor is outside
15 the scope of the affidavit.

16 ACTING PRESIDENT: Objection overruled.

17 MR. TAVENNER: Please answer the question.

18 A That may have been the purpose of the mixed
19 commission but what I am telling you is that actually
20 no such discussions were held.

21 Q Now, do you mean your commission did not dis-
22 cuss military matters?

23 A I have no recollection of ever having discussed
24 military matters -- I have no recollection that it ever
25 discussed --

1 Q Well, why was it that your military commission
2 established under the Tripartite Pact did not discuss
3 military matters?

4 A I don't know the reason.

5 Q Let me see if I can refresh your recollection.
6 Did not your military commission fail to function because
7 as a matter of fact an informal commission composed of
8 Ribbentrop and OSHIMA took over the functions of your
9 committee and military matters were thus settled in
10 the main on a higher level? Isn't that true?

11 A No, that isn't true.

12 Q Do you not recall appearing at room 618, Meiji
13 Building, on the 25th day of March 1946, at which time
14 you were interrogated by Lieutenant F. E. Kennamer, Jr.,
15 and Lieutenant A. E. Klausner served as interpreter, at
16 which time you told Lieutenant Kennamer in substance as
17 follows: "Another reason that the joint military com-
18 mission did not function effectively was that an un-
19 official commission which consisted of Foreign Minister
20 Ribbentrop and General OSHIMA, the Japanese ambassador
21 to Germany, was established. Ribbentrop and OSHIMA con-
22 ferred in respect to military measures and with these
23 conferences proceeding on the level of the German Foreign
24 Office it was difficult for the subordinate military
25 commission to carry out its functions."

1 Did you or did you not make that statement?

2 A I think I said something to that effect.

3 Q In March 1934 did not Ribbentrop request
4 OSHIMA to communicate to the Japanese Government the
5 German desire that submarine warfare in the Indian
6 Ocean be intensified?

7 A I did not hear that he had demanded that of
8 the government but I did hear that he had expressed
9 such desires to the government.

10 MR. TAVENNER: No further questions, if the
11 Tribunal please.

12 MR. SHIMANOUCHI: No redirect. May the witness
13 be released on the usual terms?

14 ACTING PRESIDENT: He will be so released.

15 (Whereupon, the witness was excused.)

16 .

17

18 MR. SHIMANOUCHI, Mr. Cunningham will continue
19 with the presentation of the defense.

20 MR. CUNNINGHAM: We now call to the witness
21 stand the accused OSHIMA, Hiroshi, who will testify
22 through defense document 2862.

23

24

25

1 H I R O S H I O S H I M A, an accused, being first
2 duly sworn, testified through Japanese interpreters
3 as follows:

4 DIRECT EXAMINATION

5 BY MR. CUNNINGHAM:

6 Q I ask that you state your name.

7 A OSHIMA, Hiroshi.

8 MR. CUNNINGHAM: I ask that the witness be
9 shown defense document 2862.

10 (Whereupon, a document was handed
11 to the witness.)

12 Q You have been handed defense document 2862.
13 I ask if that is your affidavit.

14 A This is my affidavit.

15 Q And are all the statements contained therein
16 true?

17 A They are all true.

18 MR. CUNNINGHAM: I offer in evidence defense
19 document 2862.

20 ACTING PRESIDENT: It will be admitted in
21 evidence.

22 CLERK OF THE COURT: Defense document 2862 will
23 receive exhibit No. 3508.

24 (Whereupon, the document above referred
25 to was marked defense exhibit No. 3508 and re-
ceived in evidence.)

1 MR. CUNNINGHAM: I will read in evidence
2 exhibit 3508, the affidavit of OSHIMA, Hiroshi:-

3 "1. MY MILITARY CAREER.

4 "I was born in 1886. I entered the
5 Military Preparatory School at the age of thirteen,
6 and, after graduating from the Military Academy, was
7 appointed in 1906 2d Lieutenant of the artillery
8 branch of the army.

9 "In 1921 while I was a Captain I was
10 appointed Assistant Military Attache and went to
11 Berlin. After my return home in 1925 I was successive-
12 ly a battalion and regimental commander, an instructor
13 of the Army Heavy Artillery School, and a member of
14 the Inspectorate-General of Military Training of the
15 Army. During this period I was mostly concerned
16 with educational matters. From August 1931 until
17 the spring of 1934 I was Chief of the Third Section
18 of the General Staff with the rank of Colonel, and
19 was in charge of internal defense matters including
20 the fortifications and the anti-aircraft defense. I
21 was then appointed Military Attache of the Japanese
22 Embassy in Berlin. Having been appointed Ambassador
23 to Germany, I resigned my commission and left the
24 army in October 1938. I was then a Lieutenant General.

25 "While I was in the army I never belonged

1 to any clique, though I do not know if there was any
2 such thing in existence.

3 "2. MY RELATIONS WITH GERMANY.

4 "1) In October 1921 I went for the first
5 time to Germany as an Assistant Military Attache, and
6 stayed in Berlin until February 1923, when I was
7 appointed Military Attache in Vienna, Austria.
8 Germany at that time was in the middle of depression
9 and confusion after her defeat, and I got an unfavor-
10 able impression politically, economically, and
11 militarily of the country.

12 "When I went back to Berlin in May 1934 as
13 the Military Attache of the Embassy, just one and
14 half years after Hitler had come to power, I found
15 that everything in Germany had changed and had
16 considerably improved, compared to the time of my
17 last sojourn. I felt that there were things in the
18 new Germany which were worthy of serious consideration.

19 "As Military Attache it was my duty to gather
20 information and make reports to the General Staff in
21 Tokyo concerning military matters, and in the dis-
22 charge of that duty I naturally came in contact with
23 leading members of the German army and air force.
24 With the exception of Ribbentrop, with whom I became
25 acquainted through the preliminary contact for the

1 Anti-Comintern Pact, my contact was generally with
2 German military leaders, among whom may be mentioned
3 General Fritsch, well known for his anti-Nazi
4 tendency, and General Beck and Admiral Canaris, who
5 were both executed on account of their participation
6 in the affair of July 20, 1944.

7 "2) During my two tours as Ambassador, I
8 found that the bulk of my time and energy had to be
9 devoted to matters such as culture, trade, protec-
10 tion of the Japanese nationals, etc., purely diplo-
11 matic contact with the German Government being only
12 a small fraction of the business of the Embassy.
13 My direct approach to the German Government was
14 naturally through Foreign Minister Ribbentrop. But
15 Ribbentrop was very often absent from Berlin, especial-
16 ly after the war had begun because he had to stay with
17 Hitler in the German General Headquarters, and the
18 location of the headquarters changed from time to
19 time. I met Ribbentrop no more than five or six
20 times a year. I met Hitler usually only upon his
21 request, and that was possibly two or three times a
22 year.
23

24 "With Nazi leaders other than Hitler and
25 Ribbentrop, I met only on ceremonial occasions or at
social parties, and had no official relations with

1 them. The German Foreign Office extremely dis-
2 liked the foreign ambassadors and ministers making
3 direct contacts with German leaders other than the
4 Foreign Minister, or with branches of the govern-
5 ment other than the Foreign Ministry. Ribbentrop
6 having made his wishes in the matter quite clear to
7 me, I was careful not to go over his head or that of
8 his ministry.

9 "3) There was the Anti-Comintern Pact in
10 existence during my first ambassadorship, and the
11 Tripartite Pact was already in effect prior to my
12 second sojourn in Berlin. As the Japanese Ambassador
13 to Germany I felt in duty bound to concentrate my
14 endeavors on the maintenance and improvement of
15 Japanese-German relations in the spirit of these
16 agreements. I did my best to live up to this con-
17 viction, always acting in line of the policy of the
18 home government then in power. For that purpose, I
19 tried to maintain as close a relationship as possible
20 with Hitler, Ribbentrop and others who happened to
21 be the German leaders, in order to make myself an
22 effective channel for smooth exchange of views be-
23 tween Japan and Germany. I never approved the Nazi
24 ideology or policy as a whole. Particularly I had
25 no sympathy with the race theory of the Nazis, their

1 them. The German Foreign Office extremely dis-
2 liked the foreign ambassadors and ministers making
3 direct contacts with German leaders other than the
4 Foreign Minister, or with branches of the govern-
5 ment other than the Foreign Ministry. Ribbentrop
6 having made his wishes in the matter quite clear to
7 me, I was careful not to go over his head or that of
8 his ministry.

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10 existence during my first ambassadorship, and the
11 Tripartite Pact was already in effect prior to my
12 second sojourn in Berlin. As the Japanese Ambassador
13 to Germany I felt in duty bound to concentrate my
14 endeavors on the maintenance and improvement of
15 Japanese-German relations in the spirit of these
16 agreements. I did my best to live up to this con-
17 viction, always acting in line of the policy of the
18 home government then in power. For that purpose, I
19 tried to maintain as close a relationship as possible
20 with Hitler, Ribbentrop and others who happened to
21 be the German leaders, in order to make myself an
22 effective channel for smooth exchange of views be-
23 tween Japan and Germany. I never approved the Nazi
24 ideology or policy as a whole. Particularly I had
25 no sympathy with the race theory of the Nazis, their

anti-Jewish and anti-Christian policy. I also
1 disapproved of their method of administration in
2 the territories occupied during the war. Diplomatic
3 decorum and discretion prevented me from expressing
4 my views openly, but I think that they were suffi-
5 ciently understood by the Japanese and Germans with
6 whom I had dealings.

7 "4) As to the cultural relations between
8 Japan and Germany the Japanese-German Cultural
9 Agreement was concluded in 1938. Works of German
10 philosophy, natural science and music were extensively
11 imported to Japan for many years prior to my time.
12 I thought that the exchange of culture between Japan
13 and Germany would benefit both nations, although I
14 did not agree with many features of the cultural
15 policy of the National Socialist Party. I supported
16 the enterprises of the Japanese-German Cultural
17 Society, and attended as often as possible cultural
18 gatherings in various places in Germany; a consider-
19 able part of my time as ambassador was occupied with
20 these enterprises.
21

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anti-Jewish and anti-Christian policy. I also
1 disapproved of their method of administration in
2 the territories occupied during the war. Diplomatic
3 decorum and discretion prevented me from expressing
4 my views openly, but I think that they were suffi-
5 ciently understood by the Japanese and Germans with
6 whom I had dealings.

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8 Japan and Germany the Japanese-German Cultural
9 Agreement was concluded in 1938. Works of German
10 philosophy, natural science and music were extensively
11 imported to Japan for many years prior to my time.
12 I thought that the exchange of culture between Japan
13 and Germany would benefit both nations, although I
14 did not agree with many features of the cultural
15 policy of the National Socialist Party. I supported
16 the enterprises of the Japanese-German Cultural
17 Society, and attended as often as possible cultural
18 gatherings in various places in Germany; a consider-
19 able part of my time as ambassador was occupied with
20 these enterprises.
21

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24

25

1 "3. CONCERNING THE DOCUMENTS TENDERED BY
2 THE PROSECUTION AS EVIDENCE.

3 "1) The prosecution quoted extensively from
4 my interrogations. These were conducted and recorded
5 in English. As I practically have no knowledge of the
6 English language and was entirely dependent upon inter-
7 preters, it was inevitable that some difficulties of
8 understanding each other or some misunderstandings or
9 misinterpretations occurred. This I found out later.
10 Some of the more important examples thereof will be
11 pointed out later.

12 "2) Next I should like to state concerning
13 the German documents as follows:

14 "a) The prosecution tendered many German
15 documents concerning my conversations with Hitler,
16 Ribbentrop and other Germans. These conversations were
17 conducted always in German, of course without inter-
18 preter. At my conversations with Hitler, Ribbentrop
19 was always present. Stahmer or his successor was some-
20 times present at my interviews with Ribbentrop. There
21 was, however, no stenographer or recorder present. The
22 records of those conversations must have been made
23 afterwards from memory, some of them even several days
24 after the conversations. Therefore, they cannot always
25 be accurate.

1 "With respect to the documents concerning my
2 conversation with Ribbentrop I find that they were
3 generally compiled in a one-sided vein favourable for
4 Ribbentrop. Sometimes it is even stated that I agreed
5 with him on certain matters while actually these matters
6 were only talked about in the course of our conversa-
7 tions and I expressed no opinion thereon. I think this
8 was because Ribbentrop had many enemies in the German
9 Government as well as within the German military circles,
10 and in distributing these documents to such people he
11 had to resort to this sort of internal-political
12 maneuvering in order to show the success of the pro-
13 Japanese policy initiated by him. Concrete examples
14 will be given later.

15 "b) I knew well that it was only Hitler and
16 Ribbentrop who decided the German foreign policy, and
17 that it was therefore of no use to talk to their sub-
18 ordinates. I always talked over important matters either
19 directly with them or through the liaison man, Stohmer
20 or his successor, in case Ribbentrop was absent from
21 Berlin. I met very seldom other officials of the
22 German Foreign Office except on social occasions. I
23 talked over routine matters with them, but rarely.
24

25 "In the records prepared by such people as
Weizsaecker, Erdmannsdorf, etc., on my conversations

1 with them, which are now in exhibit in this trial, there
2 are many matters of which I have no recollection. They
3 evidently drafted these documents, adding much to my
4 informal chats and putting them in such a form as to
5 make it appear as if they had important talks with me,
6 and then presented them to Ribbentrop. I find several
7 matters in these documents of which they must have
8 obtained information from other sources.

9 "c) Many telegrams or reports signed by
10 Ambassador Ott were tendered, some of them referring
11 to me.

12 "I first made acquaintance of Ott in April
13 1934, prior to my going to Germany as Military Attache,
14 when Ott arrived in Tokyo as the Military Attache of the
15 German Embassy. Ott paid me a courtesy visit at that
16 time. Thereafter, we were separated because I was in
17 Berlin while he was in Tokyo. I had a personal contact
18 with him during my stay in Tokyo between December 1939
19 and January 1941, when I left Japan for my second am-
20 bassadorial tour of duty. We had sometimes informal
21 chats about matters concerning Japan and Germany. I
22 never considered them seriously as I was completely
23 retired from the public life at that time, did not
24 know the view of the government, and also had no
25 inside information to give. I am much surprised that

1 my name was often cited in the telegrams of Ambassador
2 Ott.

3 "4. MANCHURIAN INCIDENT.

4 "I was from August 1931 until March 1934 the
5 Chief of the Third Section of the General Staff. As
6 my post was in charge of such purely internal defense
7 matters as the fortifications and the anti-aircraft
8 defense, I had no connection with the Manchurian Inci-
9 dent or with the problem of Manchukuo. This situation
10 continued also after I became the Military Attache in
11 Berlin in March 1934.

12 "5. MY APPOINTMENT TO MILITARY ATTACHE.

13 "1) In March 1934 I was appointed Military
14 Attache of the Japanese Embassy in Germany and arrived
15 in Berlin in May of the year. As to the circumstances
16 of my appointment I heard that I was chosen because I
17 spoke the German language well and had some knowledge
18 of Germany as a result of my previous stay in that
19 country. The Chief of the General Staff at the time
20 of my appointment was Prince KAN-IN, and General UEDA,
21 Kenkichi, was the Deputy Chief of the General Staff.
22

23 "Prior to my departure from Tokyo I received
24 orally through General UEDA instructions of the Chief
25 of the General Staff concerning my duty in Germany. I
was ordered to watch and investigate, among other things,

1 the stability of the Nazi regime, the future of the
2 German army, relations between Germany and Russia, and
3 particularly between the armies of the two countries.
4 I was further instructed to collect information and
5 report on Soviet Russia.

6 "2) According to the Japanese system the
7 Military Attache belonged directly under the Chief of
8 the General Staff, and was not subordinate to the
9 Ambassador (defense document No. 2855)" which I now
10 offer in evidence. I will read the document after I
11 complete the statement.

12 ACTING PRESIDENT: It will be admitted in
13 evidence.

14 CLERK OF THE COURT: Defense document 2855
15 will receive exhibit No. 3509.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3509 and received in evidence.)

19 MR. CUNNINGHAM: (Continuing) "He carried
20 out his duties solely in accordance with instructions
21 of the Chief of the General Staff, and reported or sent
22 information directly to him instead of going through
23 the Ambassador.

24 "6. ANTI-COMINTERN PACT.

25 "1) Concerning my contacts with Ribbentrop

OSHIMA

DIRECT

33,985

1 prior to the negotiations for the Anti-Comintern Pact
2 which was concluded between Japan and Germany in 1936
3 the prosecution offered parts of my interrogation as
4 exhibits 477 and 478, transcript pages 5913-5916 and
5 5917-5918. I should like to point out regarding this
6 matter that the contacts I had with Ribbentrop and Hack
7 as narrated here were for the sole purpose of collect-
8 ing information. This was one of my main duties as
9 Military Attache. They were nothing in the nature of
10 diplomatic negotiations. When I met him in 1935,
11 Ribbentrop had the title of Ambassador unattached.
12 Hack was a salesbroker of arms for foreign countries
13 who had been visiting the office of the Japanese Military
14 Attache in Berlin long before my arrival.

15 "2a) In exhibit 478, transcript pages 5917-
16 5918, it is made to appear that, in answer to the ques-
17 tion 'Are they (the Japanese Military and Naval Attaches)
18 authorized by virtue of their position as military
19 attache to enter into negotiations with the military
20 of another nation, looking towards a pact or a treaty
21 or an international agreement between the two nations?'
22 I stated: 'Yes, if it was a strictly military matter
23 they may discuss these matters without going through
24 the Ambassador.' I should like to state the following
25 in order to clarify this point:

1 "The Japanese Military (or Naval) Attache is
2 authorized to negotiate for and conclude purely mili-
3 tary agreements with the military of the country of
4 his residence. In this case, no participation of the
5 Ambassador is tolerated, according to the Japanese
6 system of law. As to other matters, the Military
7 Attache can only send information to the General Staff,
8 but is not authorized to negotiate with the government
9 of the country of his residence.

10 "b) In the same exhibit 478 it is made to
11 appear also that I stated that 'that is quite true that
12 the army had enough power to very probably sell the
13 pact to the Japanese Government,' and that 'I would
14 say that no treaty could possibly have been made on
15 this if the army had not wished it.' But I have no
16 recollection of stating such things. I only said as
17 to the reason why Ribbentrop approached me, the Military
18 Attache, that he might have thought that the Japanese
19 army was most interested for such a matter in view of
20 the general situation at the time. This statement must
21 have been misunderstood.

22 "3) After I had reported on the desire of
23 Ribbentrop to the General Staff in Tokyo, Lieutenant
24 Colonel WAKAMATSU was dispatched to find out the views
25 of the German Government and the German army firsthand.

OSHIMA.

DIRECT

33,987

1 He arrived in Berlin at the end of November 1935.

2 I took him to Ribbentrop and General Blomberg, German
3 Minister of Defense. In this interview Ribbentrop
4 proposed conclusion of an Anti-Comintern Pact, on the
5 ground that the Seventh Congress of the Communist
6 International in Moscow of that year brought out a reso-
7 lution to the effect that Japan and Germany were its
8 primary enemies, and that Japan and Germany had common
9 interests to defend themselves against destructive
10 activities of the Comintern. I expressed no opinion
11 to this proposal. Lieutenant Colonel WAKAMATSU left
12 Berlin with this information in December 1935, and
13 arrived in Tokyo at the end of January 1936.

14 "4) At that time, Ambassador MUSHAKOJI was
15 on leave in Tokyo. He returned to Berlin at the end
16 of April 1936, after the main points in this matter
17 had been decided upon in Tokyo. Thereafter, negotia-
18 tions were conducted by MUSHAKOJI with Ribbentrop in
19 accordance with instructions of the government, and
20 the Anti-Comintern Pact and the Secret Agreement with
21 Germany were concluded.

22 "5a) Concerning the purpose of the Japanese
23 Government in concluding the Anti-Comintern Pact and
24 the Secret Agreement with Germany my understanding was
25 as follows:

OSHIMA

DIRECT

33,988

1 "First: Inasmuch as Japan was internationally
2 isolated after the Manchurian Incident, it was desirable
3 to remove that uneasy feeling by finding some ally or
4 allies;

5 "Secondly: -Since the destructive activities
6 of the Comintern were rampant in Europe and in Asia
7 at the time, eating into the internal structure of
8 nations as seen in the Spanish civil war and the com-
9 munist rebellion in China, it was felt advisable that
10 as many nations as possible should join hands and take
11 countermeasures; this was especially necessary for
12 Japan in view of the resolution of the Seventh Congress
13 of the Comintern in Moscow in 1935 which declared Japan
14 and Germany as its primary enemies; and

15 "Thirdly: Japan was keenly feeling pressure
16 from Soviet Russia at the time. Russia had developed
17 her heavy industries by the Five-Year Plan and had
18 increased her armament to a great extent. She had
19 considerably reinforced her army in the Far East.

20 "Therefore, Japan wanted to come to a political
21 agreement with Germany which was similarly situated
22 vis-a-vis Soviet Russia, in order thus to make her posi-
23 tion more secure against the Russian pressure.
24
25

~~"With this purpose of the Pact as under-~~
stood by me I was in complete agreement.

"b) The prosecution alleges that the
Anti-Comintern Pact and the Secret Agreement were
the forerunners of the Tripartite Pact of September
1940; that they were aggressive agreements directed
against the whole democratic countries and were
particularly used in the aggression against China.
I never heard that the Japanese Government and the
army ever had such thoughts in connection with the
conclusion of these agreements, nor had I such
thoughts myself. I believed that the Anti-Comintern
Pact was an ideological pact against the spread of
communism, and the Secret Agreement was of a very
passive nature only stipulating as it does that
Japan or Germany would not carry out any measures
which would, in their effect, be apt to relieve the
position of Soviet Russia in case one of the two
countries was attacked by her unprovokedly. The
text clearly shows this. I also did not dream of the
outbreak of the China Incident at the time of the
conclusion of these agreements.

1 "8. HIMMLER'S MEMORANDUM.

2 "1) The prosecution exhibit 489, Himmler's
3 memorandum, transcript pages 6,026-6,028, says that
4 Himmler visited me on 31 January 1939 and talked
5 with me concerning counter-intelligence activities
6 against Soviet Russia. But Himmler never visited me
7 at that time. I cannot remember seeing him then,
8 however hard I try to refresh my memory.

9 "During my ten years' stay in Germany, I
10 had no special relations with Himmler either privately
11 or officially. Only twice I received visits from
12 him; namely, in the winter of 1936, when an official
13 of the Japanese Home Office came to Germany in order
14 to study measures for controlling communism, and I
15 invited Himmler to a dinner party to solicit his
16 assistance. This was done on behalf of this Japanese
17 official. The other occasion was in March 1941, when
18 I went to Germany as Ambassador for the second time,
19 and Himmler visited me to return my courtesy call.

20 "Concerning the matters enumerated in this
21 memorandum of Himmler I should like to explain as
22 follows:
23

24 "2). In or about June 1937 while I was the
25 Military Attache my office in Berlin began, in accord-
ance with instructions of the Chief of the General

1 "7. CHINA INCIDENT.

2 "The outbreak of the China Incident in
3 July 1937 was a complete surprise to me. I had been
4 in Berlin as Military Attache since the Spring of
5 1934 and was completely out of touch with the China
6 problem. I learned by telegrams from the General
7 Staff after the outbreak of the incident of the
8 non-aggravation and non-extension policy of the
9 Japanese Government and the central army authorities,
10 and believed that it would soon be settled locally.

11 "It became gradually clear that it would not
12 be settled quickly, and I was much concerned that
13 the position of Japan would be endangered in the
14 face of the Soviet armament in the Far East. At
15 the end of December 1937 I received an instruction
16 from the General Staff to request the German army
17 that peace be offered to Chiang-Kai-Shek through
18 General Falkenhausen who was in China as the military
19 advisor to the Chinese Government. I approached
20 the German army at once. General Keitel, Chief of
21 OKW, agreed, and he initiated some action to that
22 end. This attempt at peace did not materialize and
23 had to be abandoned when the efforts of mediation
24 by Ambassador Trautmann were terminated.
25

1 Staff, to study the question of using white Russians
2 in Berlin in order to collect information about Soviet
3 Russia, and for propaganda and counter-intelligence
4 purposes in case of war between Japan and Russia.
5 This task was entrusted to Lt. Col. USUI, and after
6 him to Col. MANAKI, of my staff. They were experts
7 on Russian matters. In its very nature it was a
8 fairly special service. Their office was separated
9 from mine, the expenditure account was also separated,
10 and in the General Staff Office in Tokyo, the section
11 in charge of this service was different from the
12 section which handled general matters concerning
13 Military Attaches. My function was only to super-
14 vise rather than to direct it, although, since I
15 received reports on more important matters, the final
16 responsibility for the service rested with me. The
17 instructions of the Chief of the General Staff con-
18 cerning the counter-intelligence were to the effect
19 that this matter was only to be studied in considera-
20 tion of war time, and not in any way to be executed
21 in peace time.

23 "There was an understanding between the armies
24 of Japan and Germany to collaborate concerning this
25 matter. On the German side it was exclusively
handled by the counter-intelligence section of the

1 Staff, to study the question of using white Russians
2 in Berlin in order to collect information about Soviet
3 Russia, and for propaganda and counter-intelligence
4 purposes in case of war between Japan and Russia.
5 This task was entrusted to Lt. Col. USUI, and after
6 him to Col. MANAKI, of my staff. They were experts
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18 cerning the counter-intelligence were to the effect
19 that this matter was only to be studied in considera-
20 tion of war time, and not in any way to be executed
21 in peace time.
22

23 "There was an understanding between the armies
24 of Japan and Germany to collaborate concerning this
25 matter. On the German side it was exclusively
handled by the counter-intelligence section of the

1 Defense Ministry whose chief was Navy Captain (later
2 Admiral) Canaris, and, as I heard at the time, was
3 kept strictly secret even within the Ministry
4 itself.

5 "Himmler was not concerned with counter-
6 intelligence service. He and Canaris were on extremely
7 bad terms. Therefore, neither I, nor other Japanese
8 officers ever talked with Himmler or his subordinates
9 about this matter. I heard that Canaris was strangled
10 to death by wire by Himmler's subordinates in the last
11 stage of this war.

12 "I never concerned myself with the counter-
13 intelligence business after I became Ambassador.

14 "3) I received reports from Lt. Col. USUI
15 that he bought some real estate at Falkensee in the
16 suburb of Berlin and kept there White Russians who
17 were engaged in a small-scale printing of anti-Soviet
18 pamphlets, but I knew nothing more than that. I myself
19 never visited the place.

20 "4) I never knew, nor heard, the story of
21 sending anti-Russian pamphlets into Soviet Russia by
22 balloons from Poland. In order to carry out such a
23 program, it would have been necessary to secure collab-
24 oration of the Polish Government, but I never heard
25 that such talks were conducted between Japan and Poland,

1 nor thought that the Japanese-Polish relations at
2 that time were so cordial as to render possible such
3 collaboration.

4 "5) I also do not know, nor have I ever heard,
5 of the story of buying motor-boats in order to send
6 pamphlets into Crimea from Roumania across the Black
7 Sea. I never thought it possible to cross the Black
8 Sea in motor-boats. In order to carry out this,
9 collaboration of the Roumanian authorities would
10 have been necessary. I did not think that the
11 Japanese-Roumanian relations were so cordial as to
12 permit such talks.

13 "6) As to the story of sending ten Russians
14 with bombs into Soviet Russia in order to assassinate
15 Stalin, I could not even think of it. Such a conten-
16 tion is most fantastic and ridiculous. I could never
17 have thought of such scheme as of sending ten people
18 with bombs into Soviet Russia, as they would surely
19 have been arrested, the plot discovered, and the
20 result would have been most grave and destructive
21 of the Japanese-Russian relations."
22

23 Do you wish to stop there, Sir?

24 ACTING PRESIDENT: We shall now adjourn until
25 9:30 tomorrow morning.

OSHIMA

DIRECT

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(Whereupon, at 1600, an adjournment
was taken until Wednesday, 26 November 1947,
at 0930.)

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266 Nov. 64

Letter of January 24, 48

26 NOVEMBER 1947

I N D E X
Of
WITNESSES

<u>Defense' witnesses</u>	<u>Page</u>
OSHIMA, Hiroshi (resumed)	33996
Direct (cont'd) by Mr. Cunningham	33996
<u>MORNING RECESS</u>	34039
Direct (cont'd) by Mr. Cunningham	34041
Direct (cont'd) by Mr. Furness	34066
<u>NOON RECESS</u>	34067
Cross by Mr. Tavenner	34068
<u>AFTERNOON RECESS</u>	34089
Cross (cont'd) by Mr. Tavenner	34090

26 NOVEMBER 1947

I N D E X

Of

EXHIBITS

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
2769	3510		An excerpt from Foreign Ministry's Year-Book, Vol. I - Public Service Regulation - Imperial Ordinance No. 39 issued 30 July 1892		34003
2787	3511		Certificate re NOHARA, Komakichi who was in the service of the Japanese Embassy but was not a formal Member of the Foreign Office		34027
2820	3512		Excerpt from the Interro- gation of OSHIMA, Hiroshi		34040
2845	3513		Statement of OSHIMA, Hiroshi dated 19 February 1946		34046

Wednesday, 26 November 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

OSHIMA

DIRECT

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1 MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

2 ACTING PRESIDENT: All the accused are
3 present except MATSUI, who is represented by counsel.
4 We have a certificate from the prison surgeon at
5 Sugamo certifying that he is ill and unable to attend
6 the trial today. The certificate will be recorded
7 and filed.

8 Tomorrow being a legal holiday, Thanksgiving
9 Day, this Court will not sit on Thursday, November 27.
10 Captain Kraft.

11 LANGUAGE ARBITER (Captain Kraft): If the
12 Tribunal please, the following language correction
13 is submitted with reference to exhibit No. 3503-A,
14 page 21, lines 5 and 6, and record page 33,941, line
15 16: delete "nor the" and insert "and still less an."

16 ACTING PRESIDENT: Mr. Cunningham.

17
18 - - -
19 H I R O S H I O S H I M A, an accused, resumed the
20 stand and testified through Japanese interpreters
21 as follows:

22 DIRECT EXAMINATION

23 MR. CUNNINGHAM: I continue reading now the
24 exhibit, or defense document 2862, page 15, number 7:

25 "7) As to the Japanese army officer

OSHIMA

DIRECT

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1 MARSHAL OF THE COURT: The International
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18

- - -

19 H I R O S H I O S H I M A, an accused, resumed the
20 stand and testified through Japanese interpreters
21 as follows:

22

DIRECT EXAMINATION

23

24 MR. CUNNINGHAM: I continue reading now the
25 exhibit, or defense document 2862, page 15, number 7:

"7) As to the Japanese army officer

1 stationed in Afghanistan, I had no connection with
2 his affair, directly or indirectly. Besides, in this
3 memorandum it is stated that he was expelled from
4 Afghanistan because he was suspected of wanting to
5 overthrow the Afghan Government in connection with the
6 Mohammedan movement. But according to what I heard
7 from a friend of that officer in Berlin at that time,
8 he was requested by the Afghan army to return to Japan
9 as a result of his anti-Russian remarks and attitude
10 which caused concern in that army.

11 "8) As mentioned above, the greater part of
12 this memorandum contains matters which I did not know
13 about, and it was impossible for me to talk about them
14 to anybody; nevertheless, in this memorandum it is
15 written that I told them. In view thereof, I must
16 deny the authenticity of this document. I even think
17 that Himmler or his subordinates concocted this docu-
18 ment utilizing my name in order to use it for some
19 internal purpose.

20 "9. STRENGTHENING OF THE ANTI-COMINTERN PACT.

21 "In 1938 and 1939 lengthy negotiations took
22 place between Japan, Germany and Italy for the strength-
23 ening of the Anti-Comintern Pact, in which I partici-
24 pated as Ambassador to Germany. These negotiations
25 ended in a complete failure; no results were obtained.

1 Since however the prosecution tendered many documents
2 concerning this subject, I should like to deal with
3 these abortive negotiations rather in detail in the
4 following pages.

5 "1) In July 1938 while I was Military Attache
6 Ribbentrop showed me what purported to be a brief
7 draft of a treaty of mutual consultation and assistance
8 between Japan, Germany and Italy, and asked me to
9 find out how such an idea might strike the Japanese
10 army. I dispatched at the end of July 1938, with the
11 permission of the German staff, Major General KASAHARA
12 to Japan for a first-hand report in this matter.

13 "After KASAHARA had reported the matter in
14 Tokyo to the General Staff and the War Ministry, things
15 developed with an unexpected rapidity. The army brought
16 it to the attention of Foreign Minister UGAKI, and
17 UGAKI presented it to the Five Ministers Conference
18 for discussion at the end of August.

19 "At the Five Ministers Conference it was
20 agreed that, subject to verbal alterations, approval
21 in a general way could be given to the German proposal,
22 provided that Soviet Russia were to be considered as
23 the primary, and other countries as the secondary
24 objectives, it being understood that the basic idea
25 was the amplification of the Anti-Comintern Pact.

1 Further, it was agreed that this matter should be
2 transferred to the formal diplomatic channel, as
3 soon as possible, but that there would be no harm in
4 communicating to the Germans in the meantime through
5 the army channel the above-mentioned decision. The
6 above was what I learned from the telegrams sent to
7 me from the central army authorities, and also from
8 the report of Major General KASAHARA who returned to
9 Berlin at the end of September. I was rather surprised
10 at the unexpected turn the matter had taken, because
11 I had been trying to find out the view of the army;
12 however, I conveyed the above promptly to Ribbentrop.

13 "2) I was appointed Ambassador in October
14 1938. I did not know what had happened in Tokyo prior
15 to my appointment. I received in September unexpectedly
16 a telegram from the General Staff asking whether I had
17 any objection to being appointed Ambassador, an idea
18 which it was said was being suggested in Tokyo, and I
19 firmly declined. The reason why I declined was that,
20 besides the fact that I had no experience as a diplomat,
21 I would have to resign, according to the Japanese
22 system, from the active military service simultaneously
23 with my appointment to the post of Ambassador, which is
24 a civilian post. I did not want to leave the army which
25 was the profession of my choice since my boyhood. Upon

1 Further, it was agreed that this matter should be
2 transferred to the formal diplomatic channel, as
3 soon as possible, but that there would be no harm in
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20 besides the fact that I had no experience as a diplomat,
21 I would have to resign, according to the Japanese
22 system, from the active military service simultaneously
23 with my appointment to the post of Ambassador, which is
24 a civilian post. I did not want to leave the army which
25 was the profession of my choice since my boyhood. Upon

1 repeated urgings from the General Staff, however, I
2 finally gave in, because as a soldier and officer I
3 could not possibly refuse to the last to comply
4 with the wish of the army. The Foreign Minister at
5 the time of my appointment was Prime Minister Prince
6 KONOYE, who held the post concurrently. Shortly
7 thereafter Mr. ARITA was appointed Foreign Minister.

8 "Upon my appointment as the Ambassador to
9 Germany I was at once placed on the reserve list of
10 the army, and practically all of my connections with
11 the army were thereby cut off. In view of the circum-
12 stances at that time, I considered it my primary task
13 to bring the proposed treaty between Japan, Germany
14 and Italy to fruition.

15 "3) At the beginning of November after I
16 had become Ambassador, Ribbentrop formally presented
17 a German draft of the treaty, and asked me to transmit
18 it to the Japanese Government. I sent it by telegram
19 to the Foreign Minister ARITA.

20 "Foreign Minister ARITA replied by a telegram
21 stating that this was a capital idea which would serve
22 to kill three birds with one stone, inasmuch as it
23 would facilitate the settlement of the China Incident,
24 and would be effective in strengthening our defense
25 vis-a-vis Soviet Russia and also in improving our

OSHIMA

DIRECT

34,006

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2 finally gave in, because as a soldier and officer I
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25 vis-a-vis Soviet Russia and also in improving our

OSHIMA

DIRECT

34,001

1 general diplomatic position. In this telegram it
2 was stated further that the Japanese Government was
3 contemplating a concrete counterproposal which would
4 be cabled as soon as decided upon. Reading this tele-
5 gram and considering the above-mentioned decision of
6 the Five Ministers Conference at the end of August, I
7 gained a definite impression that the Japanese Govern-
8 ment was in agreement in principle to the German
9 proposal.

10 "Shortly thereafter, however, a telegram was
11 received from Tokyo which stated that there seemed to
12 exist a misunderstanding as to the objective of the
13 proposed treaty. As I could not understand what it
14 meant, I cabled back for explanation, but received no
15 clear answer. On the other hand, the announced
16 counterproposal of the Japanese Government did not
17 arrive despite my repeated request, and I could not
18 proceed with the negotiations with the German side until
19 the arrival of the ITO mission in Berlin at the end of
20 February 1939.

21 "4) ITO MISSION.

22 "a) After the HIRANUMA Cabinet had replaced
23 the first KONOYE Cabinet at the beginning of 1939,
24 Foreign Minister ARITA sent a telegram announcing the
25 dispatch of a mission headed by Mr. ITO, former Japanese

1 Minister to Poland, as a special envoy, in order to
2 convey and explain the instruction decided upon by the
3 Japanese Government. The mission arrived in Berlin
4 at the end of February. As the instruction brought by
5 them was addressed to both ambassadors to Germany and
6 to Italy, Ambassador SHIRATORI came to Berlin and we
7 met the ITO mission together.

8 "b) The Japanese counterproposal conveyed by
9 this mission corresponded in its main part, as far as
10 I remember, to the draft Treaty of Mutual Consultation
11 and Assistance between Japan, Germany and Italy, the
12 Signing Protocol and the Secret Accessory Protocol,
13 which are now in evidence as a part of the exhibit
14 2619, transcript pages 22,539-22,550. In so far as
15 the treaty which was to be published was concerned,
16 no limitation or condition was placed on the duty of
17 mutual assistance. However, two secret understandings
18 were to be annexed to the treaty, and it was to these
19 understandings or reservations that we were specially
20 instructed to try and obtain the concurrence of the
21 German and Italian Government. These secret understand-
22 ings were:

23 "(1) That Japan would not render any military
24 assistance in case Germany and Italy were attacked by
25 countries other than Soviet Russia, unless these

countries had turned communistic, and

1 "(2) The explanations would be given to
2 third parties to the effect that this treaty was an
3 extension of the Anti-Comintern Pact.

4 "According to this instruction, the secret
5 understanding No. 1 was in fact going to limit the
6 duty of military assistance to Japan to cases where
7 Soviet Russia was involved. This I thought would
8 contradict what I had already committed to the German
9 side in accordance with telegrams received from Tokyo
10 when I was Military Attache; to present this proposal
11 to Germany as it would not only cause Germany to
12 doubt Japan's sincerity, but I was also sure that she
13 would not accept it. Therefore, I cabled my view to
14 Tokyo that , if the Japanese Government in fact wished
15 the successful conclusion of the treaty, it would be
16 necessary to reconsider the secret understanding No. 1.

17 "According to the Japanese law, an official
18 can present his view to his superior concerning the
19 business under his charge (Defense Document 2769),"
20 which I now offer in evidence.

21 ACTING PRESIDENT: It will be admitted in
22 evidence.

23 CLERK OF THE COURT: Defense document 2769
24 will receive exhibit No. 3510.
25

1 (Whereupon, the document above
2 referred to was marked defense exhibit
3 No. 3510 and received in evidence.)

4 MR. CUNNINGHAM: As in the case of the other
5 document, I will read it after the completion of the
6 reading of the affidavit.

7 (Reading continuing): "When I presented my
8 observations in connection with instructions of the
9 home government during these negotiations I was only
10 following this principle.

11 "c) Moreover, in the detailed explanation
12 attached to this instruction there was a remark that
13 the Japanese Government was compelled to make conces-
14 sions to the extent of the draft treaty above givon
15 because Germany and Italy had been misled concerning
16 Japan's position in the course of negotiations up to
17 date. I thought that this was a very grave matter, for
18 if I had misled Germany I had certainly to take my
19 responsibility for it. Therefore, I cabled to Foreign
20 Minister ARITA asking to clarify this point. ARITA
21 replied at the end of March that no one in particular
22 was responsible. I did not tender my resignation at
23 this time, nor did I indicate my wish to resign or
24 t nder my resignation during the whole course of
25 negotiations for this treaty.

1 "d) The prosecution exhibit 501, diary of
2 Count Ciano, transcript pages 6,095-6,097, and 502,
3 telegram of Ribbentrop, transcript pages 6,097-6,102,
4 state that I refused to carry out the instruction
5 brought by the ITO mission and threatened the Tokyo
6 government by resignation; however, this was clearly
7 not the case.

8 "e) As to the prosecution exhibit 502, it is
9 also quite untrue that the original draft of the pro-
10 posed treaty had been drafted by direct negotiations
11 between Ribbentrop, Ciano and myself. I never talked
12 with Ciano concerning this question. The draft was
13 drawn up by the German side without my participation.

14 "5a) In answer to my observation as to the
15 instruction brought by ITO a new instruction revising
16 the original text of the secret understandings were
17 received at the end of March, which I immediately con-
18 veyed to Ribbentrop.

19 "The purport of this new instruction was
20 according to my memory as follows:

21 "The secret understanding No. 1 was revised
22 and it was made to read that although Japan accepted
23 the duty of military assistance also in case Germany
24 and Italy were attacked by countries other than Soviet
25 Russia, she would not be able to carry it out effectively

1 for the time being. As to the secret understanding
2 No. 2, Japan wanted to reserve that, in case inquiries
3 were made by third parties, Japan would explain that,
4 as far as Japan was concerned, she had nothing in view
5 but the destructive activities of the Communist Inter-
6 national in concluding this treaty.

7 "b) Ribbentrop stated that it was his inter-
8 pretation that by this proposal Japan accepted in
9 principle the duty of war participation in case also
10 of Germany and Italy being attacked by countries other
11 than Soviet Russia, and asked me whether this inter-
12 pretation was correct. I replied that, since Japan
13 according to the instruction accepted the duty of
14 military assistance, I thought Japan accepted in
15 principle the duty of war participation, although the
16 scope and mode thereof would be different from time to
17 time. Ribbentrop said also that he could not consent
18 to Japan's making a different and independent explan-
19 ation to third countries concerning the purpose of the
20 treaty. I tried hard to explain the situation Japan
21 was placed in. Thereupon, Ribbentrop said that he
22 would consult Hitler. As a result of that consultation,
23 he replied that, although he would accept the Japanese
24 proposal in so far as the Treaty itself, the Signing
25 Protocol and the Secret Accessory Protocol was concerned,

OSHIMA

DIRECT

34,007

1 he desired Japan would withdraw the proposal for
2 secret understandings. He suggested that, as
3 Germany had no intention of requesting Japan to go
4 beyond her capacity for she herself could not do
5 anything beyond her own capacity for Japan, the details
6 of the obligations of the contracting powers should
7 be referred to the conferences among the parties
8 which were envisaged in the Secret Accessory Protocol
9 to the treaty. In short he asked reconsideration
10 on the part of the Japanese Government, and I
11 cabled to Tokyo in that sense. The contention in
12 the prosecution exhibit 502 that I refused again at
13 this time to carry out the instructions is not a
14 true statement of the fact.

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13 this time to carry out the instructions is not a
14 true statement of the fact.

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1 "6) The instructions from Tokyo Government
2 thereafter never denied the duty of war-participa-
3 tion. Only, they gave a very broad interpretation
4 to this term by including in it such measures as
5 could not be interpreted normally as war-participa-
6 tion, for instance the supply of materials, the
7 lease of military bases, etc., and instructed me to
8 secure the consent of Germany to that interpretation.
9 The instructions of the government concerning these
10 negotiations were very ambiguous and difficult to
11 understand, and I was sometimes hard put to it how
12 to make them clear to the German side. This ambiguity
13 was, as I found out later, due to the fact that the
14 instructions were drafted in Tokyo as a result of a
15 compromise in words only among the Ministers concerned
16 while the difference of opinions on this question
17 remained unreconciled.

18 "b) In spite of these difficulties I tried
19 to explain the Japanese point of view to Ribbentrop.
20 Ribbentrop finally recognized the necessity for
21 Japan to make the two reservations, and proposed that
22 proper formulation for them should be studied from
23 legal-technical point of view. Upon my request I
24 sent, at the beginning of May, Counsellor USAMI to
25 Mr. Gaus, Chief of the Treaty Bureau of the German

OSHIMA

DIRECT

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1 Foreign Office, for consultation concerning the
2 reservations, and a tentative draft drawn up by Gaus
3 was cabled to Tokyo. Although I forgot the details,
4 I think that Paper No. 3 and 4 of the exhibit 2619,
5 transcript pages 22,539-22,550, correspond to this
6 so-called 'Gaus Plan.'

7 "c) At about the time when I cabled the
8 Gaus Plan to Tokyo, Premier HIRANUMA sent a personal
9 message to Hitler and Mussolini through the German
10 and the Italian Ambassadors in Tokyo. In this
11 message HIRANUMA stated that Japan was resolved to
12 stand on the side of Germany and Italy and render
13 military assistance within her capacity even in case
14 the two powers were attacked by countries other than
15 Soviet Russia, but under the prevailing circumstances
16 she was compelled to make certain reservations. He
17 requested Germany to make concessions as to the secret
18 understandings trusting upon the sincerity of Japan,
19 as she was most earnestly desirous to conclude this
20 agreement. The purport of this message was thus
21 strongly in support of the line of negotiations which
22 I was pursuing at that time. This message was wired
23 to me by Foreign Minister ARITA, simultaneously with
24 its delivery to Ambassador Ott in Tokyo, and I had it
25 delivered at once to the German Foreign Office for

1 assurance sake.

2 "When the message arrived, Ribbentrop was
3 staying with Hitler in South Germany. He telephoned
4 to me saying that Hitler upon reading the message
5 said that although he was not asking much from Japan
6 he could not agree because some ambiguities still
7 remained.

8 "d) The prosecution exhibit 2230, telegram
9 from Ribbentrop to Ott, transcript pages 15,990-15,992,
10 states that at the end of May I again refused to carry
11 out instructions. I told Ribbentrop at that time that
12 I cabled to Tokyo my observations to an instruction
13 concerning the Gaus plan. Ribbentrop must have misunder-
14 stood this, intentionally or unintentionally, and wired
15 to Ott in that sense.

16 "e) It is also untrue that I received, as
17 stated in this exhibit 2230, a telegram from War Minis-
18 ter ITAGAKI in which ITAGAKI is said to have request-
19 ed me 'to hold off until later against ARITA in order
20 not to disturb the discussions among the various fac-
21 tors in Tokyo,' saying further that 'the army is
22 firmly resolved to fight the matter out quickly and
23 even at the risk of a cabinet overthrow.' Concerning
24 this matter I recollect the following fact:
25

"Major General KAWABE, the Military Attache

1 in Berlin, wired to the central army authorities
2 criticizing the equivocal attitude of the government
3 concerning the negotiations for the proposed treaty.
4 War Minister ITAGAKI replied to him by a telegram
5 stating: 'As the atmosphere of the Five Ministers
6 Conference is inclining to favour the conclusion of
7 the treaty, better keep quiet now. I have no inten-
8 tion whatsoever to overthrow the present cabinet.'
9 I heard the story from KAWABE, and I think, although
10 I have no clear recollection, that I told it to
11 Ribbentrop. At any rate, I never received telegrams
12 from War Minister ITAGAKI, directly or indirectly,
13 concerning these negotiations. That was not permitted
14 in the Japanese system. I was also not at all con-
15 cerned with the exchange of telegrams between KAWABE
16 and ITAGAKI as mentioned above.

17 "7) At the beginning of June a new instruc-
18 tion was received from Tokyo requesting of the German
19 Government a revision of the Gaus Plan. I conveyed
20 it to Ribbentrop and explained it in detail. Ribben-
21 trop showed understanding as to the Japanese point of
22 view that Japan could render no effective military
23 assistance for some time to come and might, according
24 to circumstances, remain neutral when Germany was
25 attacked by countries other than Soviet Russia. How-

1 ever, he strongly rejected as before the idea of
2 exchanging notes concerning the secret understandings,
3 on the ground that, if such notes leaked out, the
4 treaty would be deprived of its political effect.
5 He told me that Germany was very anxious about the
6 leakage of secrets in Tokyo. In the middle of June
7 I reported the above to the Japanese Government, but
8 received no instruction thereafter. The negotiations
9 were terminated due to the conclusion of the German-
10 Russian Non-aggression Treaty on 23 August 1939.

11 "8) Although these extended negotiations
12 failed to result in any agreement, I think it might
13 not be amiss here to state my attitude and my under-
14 standing of the purpose of the treaty.

15 "a) During the whole negotiations my constant
16 idea was that:

17 "(1) this proposed treaty was of a purely
18 defensive nature, and

19 "(2) its purpose or object was not war but
20 it was meant to be used as a means in diplomatic nego-
21 tiations.

22 "According to my understanding based upon
23 telegrams from Tokyo, the reasons why the Japanese
24 Government wished the conclusion of this treaty were:

25 "(1) to strengthen the diplomatic position of

1 Japan by securing allies in order thereby to facili-
2 tate the settlement of the China Incident, and

3 "(2) to improve our defensive position vis-a-
4 vis Soviet Russia. In other words, it was necessary
5 for Japan to find allies and secure herself against
6 the possible attack from powerful Soviet Russia as
7 Japan's resources were being exhausted in the China
8 Incident.

9
10 "This intention is also clearly expressed
11 in the treaty draft which was drawn up as a result
12 of my negotiations with the German Government, exhibit
13 2619, transcript pages 22,539-22,550. In its Pre-
14 amble it is stated that the Government of Japan,
15 Germany and Italy. 'in the conviction that the inter-
16 national activities of the Communist International
17 threaten the peace in Europe and Asia, determined in
18 the spirit of the Agreement against the Communist
19 International to strengthen the defense against the
20 communistic disintegration in Europe and Asia, and to
21 preserve the common interests of the three contract-
22 ing powers, have agreed upon the following provisions.'

23 "b) As was proper for an Ambassador on the
24 spot, I did my best during the entire period of the
25 negotiations to bridge over the opposing views of
the both governments of Japan and Germany.

1 For that purpose I conveyed the German views accurate-
2 ly to the Japanese Government, while of course inter-
3 preting the Japanese point of view truly to the Ger-
4 mans and endeavouring to carry it through. Sometimes
5 I represented to the Japanese Government after sound-
6 ing the German views that, if it in fact desired the
7 successful conclusion of the negotiations, it was
8 preferable to make some concessions to the Germans.
9 Then the instructions from Japan were equivocal, I
10 requested Tokyo for clarification and postponed the
11 execution of the instructions until I received answer
12 from Tokyo to my inquiry. However, I have no recollec-
13 tion of having contradicted or having refused to carry
14 out instructions, or going beyond the scope of instruc-
15 tions. In fact I received no censures from the Foreign
16 Minister in this respect during the whole negotiations
17 and later.

18 "10. GERMAN-RUSSIAN NON-AGGRESSION TREATY

19 AND MY RESIGNATION

20
21 "1) On or about 20 August 1939 Ribbentrop, who
22 was staying at Fuschl in South Germany, called me on
23 the telephone and informed me of the German decision
24 of concluding the Non-Aggression Treaty with Soviet
25 Russia, explaining that this had been made inevitable
by exigencies of the European situation. I at once

1 told him that this was in contravention of the anti-
2 Comintern Pact and an act of extreme bad faith on
3 the part of Germany.

4 "Shortly thereafter, when Ribbentrop stopped
5 in Berlin on his journey to Moscow for the signing
6 of this treaty, he asked me to call him and explained
7 the matter. I repeated my oral protest on this
8 occasion to him.

9 "2) Thereafter I received an instruction
10 from Foreign Minister ARITA to lodge a formal protest
11 with the German Government regarding this matter.
12 I drafted a note of protest at once and saw State
13 Secretary Weizsäcker in order to hand it to him,
14 as I could not see Foreign Minister Ribbentrop at that
15 time. However, Weizsäcker begged me earnestly to
16 postpone the presentation of the note for a while
17 because Germany then was in a very difficult position
18 in connection with the negotiations with Poland, and
19 I, considering that I had already protested twice
20 directly to Ribbentrop, consented to his request,
21 and postponed the presentation of the note until the
22 middle of September, when the war situation in Poland
23 was somewhat clarified.

24 "3) Having received the notification from
25 Ribbentrop on or about 20 August that the conclusion

1 of the German-Russian Non-Aggression Treaty was im-
2 minent, I immediately cabled to Tokyo offering my
3 resignation. About one month thereafter I received
4 order to return to Tokyo. I left Berlin in October
5 and arrived in Japan via the United States in Decem-
6 ber 1939. My request for resignation was granted and
7 I was relieved of my post on 27 December 1939.

8 "4) The reason why I offered my resignation
9 was because I felt that I had not fulfilled my duty
10 as ambassador, not having been able to anticipate the
11 conclusion of the Non-Aggression Treaty by Germany
12 with Soviet Russia. The other reason was that I was
13 much annoyed at the volte face of Germany. I resigned
14 solely on my own initiative without being requested
15 by the Government. I had no thought of going to
16 Germany ever again.

17 "5) I learned for the first time in this
18 Tribunal that Ribbentrop worked on the Japanese
19 Government to keep me on my post. I do not know even
20 now whether it is true or not.

21 "11. MY ATTITUDE BEFORE LEAVING GERMANY

22 "I was functioning as Ambassador after offer-
23 ing my resignation until my departure from Berlin in
24 October 1939. During the period I had no important
25 conversation with the German side except over routine

1 matters as was proper for an Ambassador leaving his
2 post.

3 "1) In the prosecution exhibit 507, trans-
4 cript pages 6,126-6,130, it is said that before my
5 departure I expressed my full approval to Ribben-
6 trop's theory concerning future Japanese-German collab-
7 oration and German good offices for the improvement
8 of the Japanese-Russian relations. As I thought it
9 desirable at that time to bring about friendly rela-
10 tions between Japan and Soviet Russia in view of the
11 repeated clashes along the Manchurian-Russian border,
12 I expressed this idea as my private opinion to Ribben-
13 trop.

14 "2) As to the prosecution exhibit 508, trans-
15 cript pages 6,131-6,132, a telegram from Toermann to
16 Ambassador Ott, my explanation is as follows:

17 "Before my departure from Germany, I think
18 that Ribbentrop asked me to send to him any advice
19 for Germany which I thought fit, but never heard from
20 anybody about the secret communications, etc., as
21 described in this telegram. I never committed anything
22 to anybody concerning my conduct after my return to
23 Japan. I never communicated with Ribbentrop through
24 the German Embassy in Tokyo after my return home or
25 through any other means.

1 "12. MY ATTITUDE AFTER RETURNING HOME

2 "1) Since my resignation in December 1939 after
3 returning home until my reappointment as Ambassador to
4 Germany in December 1940, I never occupied any official
5 position and had no connection with any political,
6 ideological or cultural groups. I was never consulted
7 by anybody of the Government, nor did I ever see any
8 official documents. As I was away from Japan for more
9 than five years since the spring of 1934, what I wanted
10 was to retire completely on this occasion and to devote
11 myself to the study of the internal situation of Japan.

12 "I received during this period several invita-
13 tions to join political parties or to make public
14 speeches, but I consistently refused. As interests in
15 Japan for the situation in Germany were very keen at
16 that time, on account of the European war, I made a few
17 speeches at private and exclusive parties. I never made
18 remarks to stir up anti-British or anti-American feel-
19 ings of the people on those occasions.

20 "2) I had nothing whatsoever to do with the
21 conception, the negotiation, and the conclusion of the
22 Tripartite Pact in September 1940. I did not even know
23 what kind of negotiations were taking place. I was
24 never consulted by Foreign Minister MATSUOKA, Ambassador
25 Ott, or Mr. Stahmer.

1 "3) The prosecution exhibit 1299A, transcript
2 pages 11,734 - 11,740, an article published under my
3 name in the Yomiuri Shimbun of 27 October 1940, was
4 an interview I gave to one of the correspondents of that
5 newspaper who visited me, wrote down what I told him,
6 and published it under my name. I gave this interview
7 largely in accordance with various statements issued by
8 the Government.

9 "13. MY REAPPOINTMENT AS AMBASSADOR

10 "1) In December 1940 I was again appointed
11 Ambassador to Germany. When Foreign Minister MATSUOKA
12 offered me the post I refused more than once, but by
13 dint of his strong urging he ultimately prevailed upon
14 me to accept it.

15 "In prosecution exhibit 560, transcript pages
16 6,421-6,422, Ambassador Ott says that I refused because
17 I wanted to stay in Japan and work politically for the
18 Tripartite Pact. This is completely untrue. The reason
19 of my refusal was because it was hardly one year since
20 I resigned as a result of the failure of negotiations,
21 and, after having been away from Japan for more than
22 five years, I did not want to go again to a distant
23 foreign country leaving my aged parents alone.

24 "2) My reappointment as Ambassador to Germany
25 took place after the conclusion of the Tripartite Pact

1 in September 1940. The Imperial Rescript issued on the
2 day of its conclusion (exhibit 554, transcript pages
3 6,394-6,395) and the statement issued by the government
4 (exhibit 2734, transcript pages 24,277-24,278) indicated
5 clearly that this pact would form a cardinal point in
6 Japan's foreign policy, and I was firmly convinced that
7 my action as the Ambassador in Germany must above all
8 be guided by this pact. As to the purpose of this pact,
9 my understanding on the ground of what I heard from
10 Foreign Minister MATSUOKA was to keep the United States
11 out of the war and to facilitate the settlement of the
12 China Incident. I thought naturally that Japan must be
13 prepared for all eventualities in the world of tension
14 and uneasiness, but I never advocated the using of armed
15 forces for any but defensive purpose.

16 "3) In January 1941, prior to my departure
17 for Germany, I was invited by Premier KONOYE to a party
18 at his official residence together with Admiral NOMURA,
19 new Ambassador to the United States. Among those who
20 were present were Prince KONOYE, Minister without Port-
21 folio HIRANUMA, War Minister TOJO, Navy Minister OIKAWA,
22 Chief of the General Staff SUGIYAMA, Deputy Chief of
23 the Naval General Staff KONDO, etc. At this party
24 Premier KONOYE explained the attitude of the government
25 toward the Tripartite Pact and emphasized that the

1 maintenance of peace was the prime desire of Japan; the
2 Foreign Minister and the Navy Minister said that, even
3 if the American-German war should break out, Japan
4 would not enter the war unless it was determined clearly
5 that Germany was attacked and asked me, as the decision
6 had to be made in Tokyo after most careful consideration,
7 to collect and report as many accurate data as possible.
8 Besides, desires were expressed by many attendants that
9 the intention of Germany in the European War be ascer-
10 tained, especially whether she was going to carry out
11 landing operations against England, and, if so, when
12 the operations would be launched.

13 "4) In January 1941, prior to my departure
14 from Tokyo, I met Ambassador Ott and Mr. Smetanin,
15 Russian Ambassador to Japan, at the German Embassy upon
16 invitation of Ambassador Ott. On this occasion I
17 emphasized my desire for improving the Japanese-Russian
18 relations in accordance with the idea of the Tripartite
19 Pact, to which Ambassador Smetanin heartily agreed. As
20 a result of his communication to the Russian Government,
21 I and my party could get the Russian transit visas very
22 quickly; the Russian Government provided us with special
23 railway cars in the Soviet territory and permitted us to
24 stay for three days in Moscow, which was an exceptional
25 favor at that time.

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2 Foreign Minister and the Navy Minister said that, even
3 if the American-German war should break out, Japan
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20 a result of his communication to the Russian Government,
21 I and my party could get the Russian transit visas very
22 quickly; the Russian Government provided us with special
23 railway cars in the Soviet territory and permitted us to
24 stay for three days in Moscow, which was an exceptional
25 favor at that time.

1 "14. SINGAPORE QUESTION AND OTHERS

2 "I arrived in Berlin on 19 February 1941, and
3 went to Berechtsgaden on 28 February in order to
4 present my credential to Hitler.

5 "2) In the prosecution exhibit 571, trans-
6 cript pages 6,459-6,468, there is a description of my
7 conversation with Ribbentrop on 23 February 1941.

8 "It is a fact that Ribbentrop in this interview
9 tried to lead the conversation in the direction of
10 inducing Japan to an attack on Singapore. However, I
11 have no recollection about telling to Ribbentrop that
12 the preparations for attack on Singapore, Hongkong,
13 etc., would be completed by May. I had never received
14 any information on such subjects. Also I never asked
15 MATSUOKA to visit Berlin with a concrete plan of an
16 attack on Singapore. I knew too well that such a matter
17 was of a purely operational nature in charge of the
18 High Command, and in our country no outside interven-
19 tion was tolerated. When Ribbentrop touched the ques-
20 tion of an attack on Singapore, I also expressed my
21 personal opinion thereto and let the talk go along the
22 line he suggested. This was because I as the Ambassador
23 to Germany considered it most important to find out and
24 ascertain the German intention for the future, especially
25 her attitude towards Great Britain, and thought that

1 these talks of Ribbentrop could be a good clue for this
2 purpose. I thought also that it was to some extent
3 necessary for that purpose not to give the impression
4 as if Japan was assuming an evasive attitude.

5 "2) In the prosecution exhibit 580, transcript
6 pages 6,552-6,532, it is said that, when Foreign
7 Minister MATSUOKA asked Ribbentrop for German help
8 in the attack on Singapore, Ribbentrop told MATSUOKA
9 that that question had already been discussed between
10 OSHIMA and himself. However, I never talked with
11 Ribbentrop about such matters, which were outside of my
12 competence.

13 "3) The prosecution exhibit 573, transcript
14 pages 6,469-6,473, is the directive No. 24 issued by
15 the Fuehrer Headquarters on 5 March 1941 concerning the
16 collaboration with Japan, in which it is said that:
17 'The aim of the cooperation (with Japan) based on the
18 Three-Powers Pact must be to bring Japan, as soon as
19 possible, to active operation in the Far East.' The
20 prosecution alleged as if I had some connection with
21 this order of the Fuehrer. In fact, I never heard
22 anything about this directive from Hitler or Ribbentrop
23 or any other Germans. I learned of this order for the
24 first time during my interrogation by the prosecutor.
25

"15. FOREIGN MINISTER MATSUOKA'S VISIT TO

1 GERMANY.

2 "1) Foreign Minister MATSUOKA arrived in Berlin
3 at the end of March 1941, and, after having several
4 conversations with Hitler and Ribbentrop, left Berlin
5 for Moscow at the beginning of April.

6 "2) Prior to my departure from Tokyo,
7 Foreign Minister's visit to Germany had already been
8 talked about. However, as the matter was not yet
9 definitely decided upon, I did not talk with MATSUOKA
10 about it in detail. After my arrival in Berlin also
11 I was never instructed to arrange with the German side
12 the agenda of conversation for MATSUOKA in Berlin. I
13 only arranged the itinerary of MATSUOKA with the German
14 side in accordance with the instructions received from
15 the Foreign Minister.
16

17 "3) I attended only the first conversations
18 of MATSUOKA with Hitler and Ribbentrop, and was not
19 present at the later conversations. At the conversation
20 between MATSUOKA and Hitler which I attended, Hitler
21 emphasized the desire of closer Japanese-German relations,
22 and MATSUOKA responded with his characteristic verbosity
23 bringing out various abstract theories but suggesting
24 nothing concrete. There was also talk about the
25 attack on Singapore, but MATSUOKA certainly did not
make any commitments. Thereafter, MATSUOKA had several

1 talks with German leaders, but he never consulted me
2 prior to these conversations, nor did he tell me any-
3 thing about the particulars after the conversations.
4 I did not ask him about that either. This was because
5 I knew, as MATSUOKA told me, that the primary object
6 of his trip was the conclusion of a neutrality treaty
7 with Soviet Russia, and no special importance was
8 attached to his visit to Germany and Italy, except to
9 make acquaintance with the leaders of the two countries.

10 "4) I should like to say a word concerning
11 my relations with Mr. MATSUOKA. I had never met him
12 prior to our meeting in November 1940 when he urged me
13 to accept the post of Ambassador. Thereafter, I saw
14 him only several times during the one month before
15 my departure to Germany and when he visited Berlin in
16 April 1941. My impression was that he was a man of
17 very strong self-confidence in the matter of diplomacy,
18 and did not like to consult anybody. Especially towards
19 the Ambassadors, he made it quite clear that he was not
20 going to consult policy with them, but would give
21 orders when necessary. I received from him before my
22 departure from Tokyo no written instructions, but only
23 very brief oral instructions concerning the Tripartite
24 Pact. I had no conference with him on Japan's foreign
25 policy in general.

1 "16. RELATIONS WITH SOVIET RUSSIA.

2 "1) The prosecution exhibit 587, transcript
3 pages 6,562-6,565, (identical with 1096, transcript
4 pages 10,031-10,033) and 1097, transcript pages 10,034-
5 10,036, are telegrams exchanged on 28 June 1941 between
6 Foreign Minister Ribbentrop and Ambassador Ott. I never
7 told Ribbentrop that I would recommend to the Japanese
8 Government military action against Soviet Russia, nor
9 did I ever make such recommendations to the Tokyo Govern-
10 ment. The contents of these telegrams are not true.

11 "2) After the outbreak of the German-Russian
12 war and especially after the onslaught of the German
13 army was beginning to slacken, Ribbentrop urged two
14 or three times Japan's joining in the war against Soviet
15 Russia. I conveyed this request to Tokyo in execution
16 of my ambassadorial duty, but did nothing more than that.
17 After the outbreak of the Pacific War also such German
18 requests were often repeated, but after I refused
19 officially and clearly upon instruction of the Japanese
20 Government the German request, as I think, in the summer
21 of 1943, such requests were never made again.

22 "3) In the prosecution exhibit 811, transcript
23 pages 7,994-7,998, a person named NOHARI testified that
24 he was in charge of secret military information concern-
25 ing Soviet Russia in the Japanese Embassy in Berlin.

1 This man was a Japanese-German half-breed temporarily
2 employed by the Embassy in Berlin, since when I do not
3 remember, could not speak Japanese well, and was not in
4 any sense a regular member of the embassy, defense
5 document 2787," which I now offer in evidence.

6 ACTING PRESIDENT: It may be admitted.

7 CLERK OF THE COURT: Defense document 2787
8 will receive exhibit No. 3511.

9 (Whereupon, the document above re-
10 ferred to was marked defense exhibit No. 3511
11 and received in evidence.)

12 MR. CUNNINGHAM: (Reading)

13 "I heard that he was following radio broadcasts
14 from overseas, but I did not know him personally, nor
15 talk with him at all. It was a matter of course that
16 I absolutely did not allow him to touch secret matters.

17 "17. JAPANESE-AMERICAN NEGOTIATIONS.

18 "1) As to the Japanese-American negotiations
19 I received at the end of May 1941, some time after the
20 commencement of the negotiations, a brief telegram from
21 Foreign Minister MATSUOKA informing me that negotiations
22 between Japan and America had been commenced. There-
23 after, no information was received from the Tokyo
24 Government; no reply was even received to my tele-
25 graphic inquiries which were sent from time to time.

1 Also the decisions of the Liaison and the Imperial
2 Conferences since the summer of 1941, or the contents
3 thereof, were never communicated to me. I learned of
4 them for the first time in this Tribunal. Therefore,
5 I was left completely in the dark as to the progress
6 of the Japanese-American negotiations, the policy and
7 the intentions of the Japanese Government, etc.

8 Ribbentrop often asked me about the real situation of
9 the Japanese-American negotiations, but because I was
10 complete ignorant as mentioned above, I could give him
11 no information.

12 "2) Such being the circumstances, I was not
13 in a position to express my concurrence or opposition
14 in this matter of Japanese-American negotiations. I
15 was of the opinion that the China problem was the
16 primary cause of the Japanese-American difficulties,
17 and that therefore it would be difficult to ease the
18 tension unless the China problem itself was solved. As
19 to the Tripartite Pact, I thought it would not be
20 difficult for the United States to understand it,
21 because it was purely defensive in nature. I believed
22 further that, as the Tripartite Pact had been made the
23 basic diplomatic policy of Japan, the adjustment of the
24 Japanese-American relations could be made only insofar
25 as it would not contradict the Tripartite Pact. During

1 the negotiations, rumors were rampant and Germany grew
2 suspicious lest the Tripartite Pact should be rendered
3 meaningless. I feared very much that if the Japanese-
4 American negotiations should fail, Japan would fall
5 into a worse state of diplomatic isolation than ever,
6 as the United States would look down upon Japan and
7 Germany and Italy would not trust her any more. It
8 was, however, my firm conviction and hope that peace
9 would be maintained between Japan and the United States.
10 This opinion of mine is also expressed in my telegrams
11 to Foreign Minister MATSUOKA dated 20 May 1941, the
12 prosecution exhibits 1075 and 1076, transcript pages
13 9,918-9,932 and 9,933-9,934. Ribbentrop expressed to
14 me at that time his strong suspicion as to the contents
15 of the Japanese-American negotiations, and I dispatched
16 these telegrams as I thought it a duty of Ambassador
17 to report the view of the German Government to Tokyo,
18 although I had received no communication from the home
19 government concerning these negotiations. This was the
20 only occasion that I presented my observation to my
21 home government concerning the Japanese-American negoti-
22 ations.
23
24
25

1 "As far as I know, Germany also did not wish
2 for a collision between Japan and the United States,
3 and expressed her approval to the Japanese-American
4 negotiations in so far as they would induce the United
5 States to observe neutrality without affecting the
6 Tripartite Pact. I think that in fact Germany tried
7 to appease America, in spite of the dangerous situa-
8 tion in the Atlantic Ocean.

9 "3) The prosecution exhibit 603-A, trans-
10 cript pages 6,643-6,650, is allegedly an intercepted
11 telegram dispatched on 29 November from Berlin to
12 Tokyo. I do not recall the interview with Ribbentrop
13 referred to in this telegram, nor the contents thereof.
14 If the interception, decoding and translation of the
15 telegram by the American authorities is correct, my
16 loss of memory must be due to the fact that the conver-
17 sation gave no strong impression to me. I do not remem-
18 ber that Ribbentrop told me that Germany would join
19 the war immediately if Japan should become engaged in
20 a war against the United States. If Ribbentrop should
21 have made such a statement, I think that that was be-
22 cause he wanted either to ascertain the Japanese
23 attitude towards the United States, or to influence
24 Japan by strong expressions as he was always afraid
25 lest Japan would turn away from Germany as a result

1 of the Japanese-American negotiations. At any rate,
2 that Germany was not determined to join the Japanese-
3 American war at once is clear from the fact that Rib-
4 bentrop postponed the answer, on the pretext of con-
5 sulting Hitler, when I approached him on this sub-
6 ject a few days later by instruction of the home gov-
7 ernment as shown in the following pages.

8 "4) On or about 29 November 1941 I suddenly
9 received a telegram from Foreign Minister TOGO saying
10 that the reply of Secretary of State Hull of 26 Nov-
11 ember was very strong and uncompromising, but as I was
12 unaware of the progress of the negotiations, I did not
13 dream of the imminence of war. I went to Vienna
14 with some of the embassy members in order to attend
15 the 'Mozart Festival' as arranged previously," defense
16 document 2876 which I now offer in evidence.

17 ACTING PRESIDENT: Mr. Tavenner.

18 MR. TAVENNER: If the Tribunal please, objec-
19 tion is made to the introduction of this document be-
20 cause it has no probative value as to the time or
21 period during which the witness was in Vienna.

22 ACTING PRESIDENT: As far as the time is con-
23 cerned it shows "Mozart Week" was from the 28th of
24 November to the 5th of December, 1941.

25 MR. TAVENNER: It merely shows that such an

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2 that Germany was not determined to join the Japanese-
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21 period during which the witness was in Vienna.

22 ACTING PRESIDENT: As far as the time is con-
23 cerned it shows "Mozart Week" was from the 28th of
24 November to the 5th of December, 1941.

25 MR. TAVENNER: It merely shows that such an

occasion occurred. It does not show in any sense

1 that this witness was there for any definite period.

2 It is of no value as evidence to determine when he
3 arrived at Vienna, when he left, or even if he was
4 ever there.

5 ACTING PRESIDENT: We certainly are not
6 interested in the six pages of the musical program
7 they had there.

8 MR. CUNNINGHAM: My thought was that this was
9 a very crucial period in the time of negotiations and
10 the activities of this accused, and if there is any
11 question about his whereabouts at a particular time
12 he can identify the occasion, the performance, and so
13 on, of his attendance on this occasion. And if the
14 prosecution questions where he was at that particular
15 time, this document and the reference to it by the
16 witness will answer his questions. And I think it has
17 probative value. I don't propose to read the document,
18 I only propose to offer it as proof of our alibi that
19 he was not in Berlin at the time these crucial nego-
20 tiations between America and Japan were going on.

21 ACTING PRESIDENT: How does this prove that
22 OSHIMA was in Vienna at that time?

23 MR. CUNNINGHAM: Well, I didn't want to go
24 into detail and have him testify as to what performance
25

1 was actually going on, what performances he attended,
2 I only want to show in general that he was there, and
3 if the prosecution is curious about whether or not
4 he was actually there he can cross-examine him and
5 he will be able to tell him exactly what performance
6 was on the day, the hour, and perhaps who took part.

7 ACTING PRESIDENT: By a majority, the objec-
8 tion is sustained and the document rejected.

9 MR. CUNNINGHAM: (Reading) "In Vienna I
10 received a telephone call from Councillor KAWAHARA
11 of the Embassy asking me to return to Berlin at once,
12 and upon my return in the morning of 2 December, I,
13 for the first time, learned that a telegram from the
14 Foreign Minister had arrived instructing me to initiate
15 the negotiations for the Non-Separate Peace Treaty. I
16 immediately called on Ribbentrop in order to communi-
17 cate this matter.

18 "Although the existence of a danger of war
19 was mentioned in this telegram, I did not feel that
20 war was inevitable or imminent as I thought that the
21 intention of the Japanese Government was only to make
22 preparations for an eventuality. I thought that there
23 was still possibility of continuing negotiations; the
24 instructions of the government arrived so suddenly that
25 I could not grasp the situation. Therefore, when

1 Ribbentrop asked me whether the war was going to
2 break out with America, I replied that it was not
3 clear.

4 "5) To this proposal of mine Ribbentrop
5 said that as it was a very grave question whether
6 Germany should immediately declare war in case war
7 broke out between Japan and America, he could not de-
8 termine it by himself and must consult Hitler, and
9 asked me to wait for a while.

10 "This situation is described in the prosecu-
11 tion exhibit 605, transcript pages 6,654-6,656, my
12 telegram to Foreign Minister TOGO, dispatched from
13 Berlin in the afternoon of the 2d, and arrived in Tokyo
14 on the 3d December 1941. But the date of my visit to
15 Ribbentrop in this telegram, the 1st of December, is
16 obviously wrong. It must be the 2d, and I think this
17 mistake was due to the garbling of the coded text of
18 the telegram. I dispatched the telegram to Tokyo
19 immediately after the interview with Ribbentrop. The
20 fact that the telegram was dispatched in the afternoon
21 of 2d December clearly indicates that I saw Ribbentrop
22 on that day.

23 "At that time Hitler was at the front near
24 Moscow where the Russians were counter-attacking, and
25 conducting the operations himself, as Ribbentrop told

OSHIMA

DIRECT

34,035

1 me. Moreover, there was a heavy snow storm raging
2 and it was extremely difficult to contact him. Thus,
3 despite my urgings the German reply was postponed day
4 by day until 7 December.

5 "6) In the afternoon of that day I received
6 an instruction from Tokyo to hasten the negotiations.
7 After consultation with the higher embassy staff I
8 drafted a telegram explaining in detail the German
9 attitude, ordered the dispatch thereof, and returned
10 to my residence at about 8 o'clock in the evening.
11 After 10 or 20 minutes I received a telephone call
12 from one of the embassy staff informing me that the
13 London radio broadcast the attack of the Japanese Navy
14 on Pearl Harbor. I was very much surprised as I had
15 never expected it and could hardly believe it. However,
16 as a precautionary measure I rung up the embassy office
17 and ordered to withhold the dispatch of the telegram
18 to Tokyo.

19 "Some time thereafter, Ribbentrop asked me by
20 telephone whether the radio broadcast was true, and I
21 replied that I could not answer, lacking an official
22 information. I went and saw him at the Foreign Office
23 upon his request. He was also much surprised and
24 seemed not to believe the outbreak of the Japanese-
25 American war. However, as the same report continued

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16 as a precautionary measure I rung up the embassy office
17 and ordered to withhold the dispatch of the telegram
18 to Tokyo.

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20 telephone whether the radio broadcast was true, and I
21 replied that I could not answer, lacking an official
22 information. I went and saw him at the Foreign Office
23 upon his request. He was also much surprised and
24 seemed not to believe the outbreak of the Japanese-
25 American war. However, as the same report continued

1 to be broadcast from various radio stations, by mid-
2 night I began to think that it might be true.

3 "7) On the morning of the 8th I received an
4 official telegram from Tokyo informing me of the out-
5 break of war. I conveyed the news to Ribbentrop and
6 we began drafting the Non-Separate Peace Treaty. As
7 the text was very simple we came quickly to an agree-
8 ment, and the treaty was signed on 11 December 1941.

9 "8) The proposal of the Non-Separate Peace
10 Treaty was not made to the German Government until I
11 received the above-mentioned instruction from the
12 Japanese Foreign Office. Prior to that there had
13 been no talk between Japan and Germany concerning
14 this treaty as far as I know.

15 "As to the prosecution exhibit 601 and 602,
16 transcript pages 6,638-6,642, I heard for the first
17 time in this Tribunal that such contacts were made
18 in Tokyo between General OKAMOTO and General Kretschmer,
19 German Military Attache, in November 1941. Ribbentrop
20 never told me about that.

21 "I might add that I made in February 1946,
22 in answer to the interrogation by the prosecutor, de-
23 tailed statements as to the circumstances in Berlin
24 at the time of the outbreak of the Japanese-American
25 war (Defense Document 2820)," which I now offer in

evidence which verifies this.

1 MR. TAVENNER: If the Tribunal please.

2 ACTING PRESIDENT: Mr. Tavenner.

3 MR. TAVENNER: I would like to inquire whether
4 or not this part of the witness' previous interroga-
5 tion is to be considered a part of his affidavit by
6 this reference? If it is, I will have no objection
7 to it. But if it is a separate document to be read
8 after this witness leaves the stand, I would object.

9 MR. CUNNINGHAM: Well, again we come to the
10 proposition that I merely wish to offer the document
11 as I see fit, and if I wish to read it, all right;
12 if I do not, all right. I do not wish to incorporate
13 it as a part of the evidence of this witness. I merely
14 wish to identify it through the evidence of this wit-
15 ness, and I merely offer it in evidence and expect to
16 read such parts as I might see fit later on.

17 ACTING PRESIDENT: Under those circumstances
18 shouldn't you offer it for identification only at
19 this time?
20

21 MR. CUNNINGHAM: I choose to offer it in evi-
22 dence at this time, and if I wish to read from it here-
23 after I have that privilege. If I merely identify it
24 now it is not in evidence as I understand it.

25 MR. TAVENNER: If the Tribunal please, if

1 counsel's request is granted it would establish a
2 most unique procedure. This witness would be in the
3 position of having stated certain things through a
4 document which is to be read after he leaves the
5 stand, and, consequently, no opportunity will exist
6 for cross-examining him unless he is recalled to the
7 stand for that purpose.

8 ACTING PRESIDENT: That is the main point
9 as to the right of cross-examination. The prosecution
10 should certainly have that right if it is introduced
11 in evidence.

12 MR. TAVENNER: I have no objection whatever
13 if it is incorporated into this affidavit and made a
14 part of it. But if it is to be presented at some
15 later time, I would object to that.

16 ACTING PRESIDENT: It seems to me that he
17 practically does incorporate it in his affidavit by
18 his statement here.

19 MR. TAVENNER: That is true, there is some
20 question about it, and that is the reason I raised
21 the question. Counsel now disavows that that is his
22 intention.

23 MR. CUNNINGHAM: I don't think there is any
24 question about this, that I am offering this document
25 in evidence not as a part of the affidavit of this

1 witness, but only referred to and identified by this
2 witness. I can't see much difference in whether it
3 is introduced or not. The right of the prosecution
4 to cross-examine would not be limited by the fact
5 whether or not it was in the record as part of their
6 interrogation.

7 ACTING PRESIDENT: The majority of the Court
8 seem to be of the opinion that if it is admitted
9 that it will be incorporated as part of the testimony
10 of this witness.

11 MR. CUNNINGHAM: I have no quarrel with
12 what part of the evidence it is considered. My thought
13 is when it is in the record it is in the record. And
14 if that is the wish of the Court why it is merely a
15 technical admission, it has no bearing on the effect
16 of the evidence.

17 ACTING PRESIDENT: I will consult with my
18 colleagues during the recess.

19 We will recess for fifteen minutes.

20 (Whereupon, at 1045, a recess
21 was taken until 1105, after which the
22 proceedings were resumed as follows:)
23
24
25

1 MARSHAL OF THE COURT: The International Mili-
2 tary Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: The objection is overruled;
4 the document will be admitted in evidence.

5 CLERK OF THE COURT: Defense document 2820
6 will receive exhibit No. 3512.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 3512 and received in evidence.)

10 ACTING PRESIDENT: The document having been
11 admitted in evidence, it is evidence for all purposes.
12 If not read by the defense, the prosecution can read it
13 in the course of its cross-examination, or such parts
14 of it as the prosecution may see fit, or he can cross-
15 examine, as he wishes.

16 MR. TAVENNER: If the Tribunal please, I have
17 now only one question to ask, and that is that defense
18 counsel be required to read such portion of that docu-
19 ment as he desires to read as part of this witness'
20 testimony. It would be reversing the procedure if the
21 prosecution were required to cross-examine on the matter
22 and then later it be read. My only point in the whole
23 matter is that counsel do whatever he desires to do in
24 reading this document as a part of this witness' testi-
25 mony when he is on the stand; and when that time comes,

1 he may elect to do so.

2 MR. CUNNINGHAM: Your Honor, I will determine
3 when I read and when I don't read part of the document--

4 ACTING PRESIDENT: Just a minute. As I
5 understand it, this having been introduced in evidence,
6 it is incorporated by this witness as a part of his
7 testimony.

8 MR. CUNNINGHAM: That is not my understanding.
9 My understanding is that I am only identifying this
10 document through this witness, as has been the practice,
11 and I am offering this as an independent document, and
12 I choose to read as much as I see fit into the record
13 when and--

14 ACTING PRESIDENT: You heard the ruling of the
15 Court. It will stand.

16 MR. CUNNINGHAM: I am frank to say that I do
17 not quite understand the rule of the Court, and if you
18 are following the past procedure, I certainly think
19 that it is contrary to the past procedure.

20 ACTING PRESIDENT: We do not care to listen to
21 any more argument, Mr. Cunningham.

22 Proceed.

23 MR. CUNNINGHAM: Starting on the bottom of
24 page 41:

25 "9) Receiving the decoration from Germany.

1 "Shortly after the outbreak of the Pacific War
2 I received a decoration from the German Government. I
3 thought this to be a gesture shown by Germany to Japan
4 since the two countries were now allies in war. In
5 Germany it was a custom that any foreign diplomat,
6 whether ambassador, minister or others, received a deco-
7 ration after two years' stay in Berlin. Decoration of
8 the foreigners was a very formal matter.

9 "18. MILITARY AGREEMENT BETWEEN JAPAN, GERMANY
10 AND ITALY.

11 "On 18 January 1942 in Berlin the Military
12 Agreement between Japan, Germany and Italy was concluded.
13 This was an agreement concerning matters belonging
14 exclusively to the High Command, and according to the
15 Japanese system no intervention by me as a civilian
16 official was tolerated. I had, therefore, in fact no
17 connection with this agreement.

18 "19. MIXED COMMISSION AND MY ATTITUDE AFTER
19 THE OUTBREAK OF WAR.

20
21 "1) I as the Ambassador to Germany was ex-
22 officio, in accordance with the memorandum concerning
23 the organization of the commission, the prosecution
24 exhibit 559, transcript pages 6,417-6,420, a Japanese
25 member of the Mixed Special Commission in Berlin based
on Article 4 of the Tripartite Pact.

1 "This commission was never convened prior to
2 the outbreak of the Japanese-American War; even after
3 its outbreak, it was, according to my memory, convened
4 not more than three times. The agenda of the sessions
5 was confined to the exchange of ceremonial greetings
6 of the delegates of the three countries and to general
7 explanations of the war situation by the German members;
8 no material discussions whatsoever concerning future
9 plans or combined operations took place. In short,
10 this commission was nothing but of nominal existence.

11 "2) With respect to the communication between
12 Japan and Germany the route through Siberia was closed
13 as a result of the German-Russian War; since the out-
14 break of the Japanese-American War the communication
15 between the both countries grew more difficult. Only a
16 few Japanese succeeded to get the Soviet visa to travel
17 via Siberia, and the difficult and hazardous voyage
18 by German blockade runners or submarines became next
19 to impossible as the war progressed. Communication
20 by air was found impracticable. Therefore, the only
21 means left open was radio, which was very inadequate
22 for the exchange of views between Japan and Germany.

23 "3) Since the outbreak of the Japanese-
24 American War, I never received from the government any
25 communication concerning political and military plans

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19 to impossible as the war progressed. Communication
20 by air was found impracticable. Therefore, the only
21 means left open was radio, which was very inadequate
22 for the exchange of views between Japan and Germany.

23 "3) Since the outbreak of the Japanese-
24 American War, I never received from the government any
25 communication concerning political and military plans

1 for the future. As far as I know the military and the
2 naval attaches received no information either. There-
3 fore, it was almost impossible for us in Berlin to col-
4 laborate with the German side politically, militarily
5 or otherwise. No special desire of the Japanese Govern-
6 ment in this respect was communicated to me.

7 "Since the outbreak of the Pacific War, mili-
8 tary matters were often brought up during my conversa-
9 tions with Hitler or Ribbentrop. As operational matters
10 were outside the scope of my duty, and moreover, as I
11 received little information from Tokyo, all that I could
12 do on such occasions was to offer my personal views
13 on the war situation in the Pacific from my general
14 knowledge of military matters and on the strength of
15 other meager general information in my possession.

16 "4) The Japanese-German Economic Agreement
17 was concluded in January 1943. I signed it in accord-
18 ance with instructions of my government. As I had no
19 sufficient knowledge concerning economic matters, I
20 entrusted this matter to a minister who was attached
21 to the Embassy as a specialist on economics. There-
22 fore, I did not know the details of the negotiations
23 or the working of the agreement after its conclusion.
24 As far as I know, this agreement remained nothing but a
25 piece of paper, because communication between Japan

1 and Germany was very difficult and transport of goods
2 was practically impossible.

3 "20. SUBMARINE QUESTION.

4 "1) It was either at the end of February or
5 the beginning of March 1943, that Ribbentrop told me
6 that Hitler wished to offer as present two German sub-
7 marines to Japan. He told me that Hitler would like
8 to make this present, as the efficiency of the German
9 submarines was very much improved recently. I con-
10 veyed this to Vice-Admiral NOMURA then resident in
11 Berlin and Rear Admiral YOKOI, the Naval Attache, and
12 also cabled it to the Foreign Office in Tokyo. The
13- central naval authorities in Tokyo promptly sent a
14 telegram to Vice-Admiral NOMURA that Japan would be
15 glad to accept the German gift. NOMURA asked me to
16 convey to Hitler Japan's acceptance, but, as Hitler
17 was not in Berlin then, I met Ribbentrop for that purpose.
18 Thereafter, all talks concerning the transfer of the
19 submarines were conducted by NOMURA and YOKOI without
20 my participation.

21 "2) In my interrogation dated 1 February 1946
22 which is now the prosecution exhibit 2106, transcript
23 pages 15,186-15,195, there are several errors owing to
24 the failure of my memory and the misunderstanding of
25 the interpreter. As Captain Robinson who interrogated

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20 my participation.

21 "2) In my interrogation dated 1 February 1946
22 which is now the prosecution exhibit 2106, transcript
23 pages 15,186-15,195, there are several errors owing to
24 the failure of my memory and the misunderstanding of
25 the interpreter. As Captain Robinson who interrogated

1 me on this matter was good enough to say that he would
2 receive my statement, drawn up on the basis of my
3 corrected memory, I presented to him a memorandum on
4 19 February 1946, which is now the defense document
5 No. 2845," which I offer in evidence.

6 ACTING PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: May it please the Tribunal,
8 the same situation exists with regard to this document,
9 which is a statement by this witness, as to the
10 interrogation, and the same ruling of the Tribunal is
11 requested.

12 MR. CUNNINGHAM: I ask that no additional
13 restrictions be placed upon the acceptance of the docu-
14 ment by the Tribunal except the restrictions which I
15 in my offer make.

16 ACTING PRESIDENT: It will be admitted in
17 evidence under the same conditions as exhibit 3512.

18 CLERK OF THE COURT: Defense document 2845
19 will receive exhibit No. 3513.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 3513 and received in evidence.)

23 MR. CUNNINGHAM: Starting at the top of
24 page 45:

25 "3) I heard in January 1942 from Hitler that

1 me on this matter was good enough to say that he would
2 receive my statement, drawn up on the basis of my
3 corrected memory, I presented to him a memorandum on
4 19 February 1946, which is now the defense document
5 No. 2845," which I offer in evidence.

6 ACTING PRESIDENT: Mr. Tavenner.

7 MR. TAVENNER: May it please the Tribunal,
8 the same situation exists with regard to this document,
9 which is a statement by this witness, as to the
10 interrogation, and the same ruling of the Tribunal is
11 requested.

12 MR. CUNNINGHAM: I ask that no additional
13 restrictions be placed upon the acceptance of the docu-
14 ment by the Tribunal except the restrictions which I
15 in my offer make.

16 ACTING PRESIDENT: It will be admitted in
17 evidence under the same conditions as exhibit 3512.

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19 will receive exhibit No. 3513.

20 (Whereupon, the document above
21 referred to was marked defense exhibit
22 No. 3513 and received in evidence.)

23 MR. CUNNINGHAM: Starting at the top of
24 page 45:

25 "3) I heard in January 1942 from Hitler that

OSHIMA

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1 he was going to issue an order to annihilate crews of
2 torpedoed merchant ships. As that was a matter con-
3 cerning the German Navy only and had no direct rela-
4 tion with Japan, I did not object. I never conveyed
5 the story to the Japanese Government as this was in
6 Japan a purely naval question and did not concern the
7 Foreign Office or Ambassador. When the offer to pre-
8 sent two submarines to Japan was made in March 1943,
9 neither Hitler nor Ribbentrop talked about the annihi-
10 lation of crews of torpedoed merchant ships.

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2 torpedoed merchant ships. As that was a matter con-
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7 Foreign Office or Ambassador. When the offer to pre-
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9 neither Hitler nor Ribbentrop talked about the annihi-
10 lation of crews of torpedoed merchant ships.

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1 "21. GERMANY'S COLLAPSE AND MY RETURN HOME.

2 "In April 1945 when danger became imminent
3 to Berlin the German Government requested the entire
4 diplomatic corps to move to Bad-Gastein in South
5 Germany. I left Berlin on April 14 together with
6 the Embassy staff. In the middle of May the American
7 forces entered Bad-Gastein, and we were placed under
8 the American custody. We were then sent to the
9 United States, leaving Bad-Gastein on 1 July 1945,
10 and taken to Bedford, Pennsylvania. We were directed
11 to stay in a hotel there. We left Bedford at the end
12 of November, and arrived at Uraga on 6 December 1945.
13 Since our internment in Germany until our return
14 home I was always treated by the American Government
15 as a diplomat under custody.

16
17 "22. CONCERNING CONSPIRACY CHARGES AND
18 OTHERS.

19 "1) a) The prosecution alleges that I
20 participated in a conspiracy with the co-accused and
21 divers other persons or with the German and Italian
22 leaders for the purpose of securing the domination of
23 a part of China and the whole world by means of
24 unlawful acts, and planned, prepared, initiated
25 and waged with these people wars in violation of
treaties or wars of aggression. This allegation

1 is totally groundless.

2 "b). First, I was as Ambassador or as
3 Military Attache nothing but an agent on the spot,
4 and was not in a position to determine by my own
5 action or opinion the policy of my home Government.
6 I did not even receive information concerning the
7 general over-all policy of the Japanese Government.

8 "c). Secondly, I never acted with the
9 knowledge that Japan was waging any unlawful or
10 aggressive war. Also I never acted with such desire
11 or intention. I was firmly convinced that it was
12 the highest duty of an Ambassador or Military Attache
13 on the spot, or a citizen of Japan, to endeavor to
14 contribute to the preservation and the development
15 of Japan in accordance with the policy determined by
16 the home government.

17
18 "2). The prosecution alleges that I par-
19 ticipated in a conspiracy of initiating unlawful
20 hostilities or hostilities without proper notice
21 against the United States and other countries and
22 committed the crime of murder by ordering, causing
23 and permitting the armed forces of Japan to make
24 such attacks on 7 or 8 December 1941.

25 "However, I never desired the initiation
of the Pacific War and was surprised on hearing of

1 these attacks after they had taken place. I never
2 consulted with anybody concerning these attacks
3 prior to their taking place nor did I suggest or
4 order them to anybody. I was merely an Ambassador
5 on the spot, and had no power to order the Japanese
6 armed forces to attack, nor had I any power to
7 prevent such attacks by them.

8 "3). The prosecution alleges that I par-
9 ticipated in the conspiracy of murdering the prisoners
10 of war and others, and of committing acts contrary
11 to the law of war and humanity against them, and
12 ordered, caused, or permitted the army and navy
13 officers of Japan and others to commit these criminal
14 acts.

15 "However, I never consulted anybody concern-
16 ing this matter, nor did I suggest it to anybody.
17 I never ordered or authorized anybody to do these
18 acts. I was merely an Ambassador on the spot and
19 had no power to do so. I did not know that these
20 acts were committed, nor was I in a position,
21 equipped with power and duty, to prevent such acts.

22 "4). I am indicted on account of the
23 allegation that I participated in a conspiracy with
24 all the co-accused of this trial. However, during
25 the period from 1934 until 1945 I was only for one

1 year in Japan, and had no chance to exchange political
2 views with most of the accused. With HIROTA, HOSKINO,
3 KAYA, KIDO, OKAWA, and SATO I had no acquaintance or
4 communication. With ARAKI, DOHIMARA, HASHIMOTO, HATA,
5 ITAGAKI, KIMURA, KOISO, MATSUI, MINAMI, MUTO, and
6 SUZUKI, I was only slightly acquainted because we
7 were in the army. With TOJO and UMEZU I served
8 together in the General Staff in or about 1931 and
9 1932, but our assignments were different and I had
10 no intimate relation with them. I met HIRANUMA
11 only once, that is, prior to my departure for Germany
12 in 1941. With OKA I had only very slight acquaintance.
13 SAIMADA was in the Naval General Staff in or about
14 1933 when I served there concurrently with my assign-
15 ment in the Army General Staff, but I knew him only
16 very slightly. With SHIGEMITSU I became acquainted
17 in 1938 or 1939 in Europe. With TOGO I was together
18 in Berlin in 1938. With SHIRATORI I became acquainted
19 in 1939 when we were engaged in the same diplomatic
20 negotiations.

21 "During my two tours of ambassadorial duty
22 the Foreign Minister of Japan changed nine times,
23 namely, KONOYE, ARITA, ABE, NOMURA, MATSUOKA, TOYODA,
24 TOGO, TANI, and SHIGEMITSU. With any of them except
25 TOGO, who was in Berlin with me, I had no closer

1 relations than brief acquaintances. At any rate,
2 I never discussed with any of the accused or any-
3 body else on matters contained in the Indictment,
4 nor did I ever suggest such matters to anybody."
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1 Now, I presume that this will be just as
2 good a time as any to read these documents that
3 I have offered, such parts of them as I desire
4 to read, but before I read I want to make a correc-
5 tion on page sixteen, line 6; change "with the
6 permission of the German Staff" to "with the
7 permission of the General Staff."

8 We now offer to read defense document 2855,
9 exhibit 3509, commencing at page 2:

10 "I, MIYAMA, Yozo, who occupy the post of
11 the chief of the Archives and Document Section of
12 the 1st Demobilization Bureau, hereby certify that
13 'military regulations concerning the organization
14 of the General Staff Headquarters' were destroyed
15 by fire at the time of the termination of the war
16 and is not in the custody of the 1st Demobilization
17 Bureau at present."

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1 Now, I presume that this will be just as
2 good a time as any to read these documents that
3 I have offered, such parts of them as I desire
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11 the chief of the Archives and Document Section of
12 the 1st Demobilization Bureau, hereby certify that
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14 of the General Staff Headquarters' were destroyed
15 by fire at the time of the termination of the war
16 and is not in the custody of the 1st Demobilization
17 Bureau at present."

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At this time, I should like to read
exhibit No. 3510:

"Article 1. Government officials, pledging
their allegiance and assiduous services to His
Majesty, the Emperor and His Majesty, the Emperor's
Government, shall obey public laws and orders and
discharge their respective duties.

"Article 2. Government officials shall
with respect to their duties, observe the orders
from the chief officials to whom they are assigned.

"They can, however, express their own
opinion relating to such orders."

That is as much of this document I care
to read.

Exhibit No. 3511:

"CERTIFICATE

"Name: NOHARA, Komakichi

"An ex-non-regular member of the embassy

"Born: On the 4th of July, 1899

"Original domicile: No. 2781 Sanno Ota-
ward, Tokyo

"Present address: Unknown

"I hereby certify that the above person
was in the service of the Japanese Embassy in
Germany on the staff serving on the spot, but was

not a formal member of the Foreign Office.

"On this 21st day of October, 1947."

Certified by "TERAOKA."

We shall not read any part of defense document 2820, revised, exhibit No. 3512, and I might say that we didn't intend to read any part of it in the first place, so we haven't changed our course of action any as a result of the controversy that has arisen about it.

MR. T. VENNERS: When counsel states that he does not desire to read any part of this exhibit, that means that he does not propose to read it later, does it not, as well as a part of this witness' testimony?

ACTING PRESIDENT: It will not be read at any time unless this witness is subject to cross-examination.

MR. CUNNINGHAM: Well, your Honor, whether this witness is cross-examined on this particular document now doesn't seem to me to interfere at all with the admission of this document into evidence. That doesn't restrict their right at all to cross-examine him on anything they may have in their possession, whether it is our document or not. We are arguing --

1 ACTING PRESIDENT: You present a document
2 which the witness identifies as his own statement.
3 If you do not care to read it in evidence, the
4 Court will certainly not give it any weight.

5 MR. CUNNINGHAM: Well, the weight the
6 Court attaches to a document is something I have
7 no control over. I only offer you what I have, and
8 how you consider it is your best judgment, not to
9 be determined by me. I only say we are arguing a
10 moot question here.

11 ACTING PRESIDENT: All I can say, and I
12 am speaking for myself alone, is that such tender --
13 such a document has little, if no, probative value.

14 MR. CUNNINGHAM: We are not apart on that.
15 I am not contending any great probative value. I
16 am merely accounting for the document to which the
17 witness made reference, and we are bound to do that
18 under the rules of this Court. I have offered this
19 document, I have identified it through the witness,
20 I referred to it, and the weight you give to it I
21 am not considering having any control over.

22 ACTING PRESIDENT: Proceed with your defense.
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1 L.H. CUNNINGHAM: I offer to read defense
2 document 2845, exhibit 3513:

3 "On February 1 Captain Robinson, having
4 finished my interrogation, requested me to refresh
5 my recollections as much as possible to facilitate
6 further interrogations by him. I accordingly sum
7 up my recollections and state, not without repetitions,
8 as follows:

9 "The interrogations on that day consisted
10 of the two points: (1) In 1943 Foreign Minister
11 Ribbentrop asked me if the Japanese Navy had any
12 intention of strengthening the communication destruction
13 warfare with submarines in the Pacific, and proposed
14 that he was ready, should the Japanese Navy desire
15 it, to have two German submarines presented to the
16 Japanese Navy as suitable models for the purpose;
17 (2) He informed me that orders had already been issued
18 to kill the crew of any U.S. vessels sunk by German
19 submarines.

20 "The first point was a fact. I immediately
21 notified Vice Admiral NOMURA, Naval Commissioner, and
22 Rear Admiral YOKOI, Naval Attache in Berlin. The
23 two admirals accordingly cabled the Japanese Naval
24 authorities (meaning Navy Minister and Chief of the
25 Naval General Staff). As for myself, I sent a telegram

1 to the Foreign Minister asking him to transmit it
2 to the Naval authorities. Then the Japanese Naval
3 authorities cabled instructions to the two admirals
4 to negotiate transfer of the German submarines.
5 Though I informed Foreign Minister Ribbentrop of this
6 telegram at the request of the two admirals, I had
7 had nothing to do with the matter since that time,
8 the negotiations being held exclusively between the
9 two admirals and the German Navy. Under the German
10 system, Foreign Minister Ribbentrop had the authority
11 to take part in and talk over such military affairs,
12 just as he told me of the above matter at the outset.
13 But it was entirely different with us; neither the
14 Foreign Minister nor the Ambassador had any such
15 authority whatever as the Navy had the exclusive
16 jurisdiction over such matters. We only transmitted
17 informations to the Navy. This was why I received
18 no telegram at all from either the Japanese Navy or
19 the Foreign Ministry, from the beginning to the
20 end.

21 "Regarding the second point at the Captain's
22 last interrogation, I misunderstood that it was also
23 notified by Germany in 1943 together with the matter
24 of strengthening the submarine warfare, mentioned as
25 the first point, and I somehow mixed the first and

1 second points. But after tracing back in my memory,
2 I recalled that this had been told by Hitler in
3 January 1942 (this was published in newspaper articles).
4 Therefore, I am sure that this matter was not mentioned
5 at the interview with Foreign Minister Ribbentrop in
6 1943. According to my memory I did not cable this
7 to my Government for the following reasons:

8 "1. The German Government had only told
9 me about such steps, without any official request to
10 the Japanese Government.

11 "2. That such measure was against the
12 traditional spirit of Japan and was not worth any
13 serious consideration. (At the last interrogation
14 I told him the following story which was a noted fact
15 and which comes from the traditional spirit of our
16 Navy: At the time of the Russo-Japanese War KAMIMURA
17 Squadron rescued the drowning Russian officers and
18 men even at the cost of suspending the chasing of the
19 Vladivostok Squadron. The Captain, however, mentioning
20 several examples, asserted that there had been
21 contradictory facts in the last war. As I had been
22 in Germany during the Greater East Asia War, I do not
23 know about the changes, but I, who left Japan five
24 years ago, cannot imagine that the massacre of the
25 crews of the sunken vessels should have been perpetrated.)

1 "3. This problem was under the sole juris-
2 diction of the Navy, and not in my authority. Perhaps
3 I may have mentioned it to Admirals NOMURA and YOKOI,
4 but my memory is not clear about it. The other day
5 the Captain inquired whether I had received a cable
6 order from the Japanese Navy dated March 20th 1943,
7 but I can positively assert that I never received such
8 a cablegram. At that time, the Captain referred to
9 the sinking of an American ship in the Indian Ocean
10 on July 2nd 1944, but I was never notified about that.
11 With regard to the massacre of the crew of sunken
12 American vessel, I did not have any talks with the
13 German Government. Moreover such a problem was under
14 the sole jurisdiction of the Navy according to the
15 tradition in Japan and the Foreign Ministry had
16 nothing to do with it. As far as I know, the repre-
17 sentatives of the Japanese Navy never talked about
18 this problem with the German Naval authorities.

19 "Incidentally I will state that there was
20 opposition against such a massacre even among the
21 German Navy. The then Chief of the operations Section
22 of the German Navy, Admiral Gross who had been the
23 liaison officer with the Japanese Navy (now lives at
24 Freiburg, Germany) once told me that such a measure
25 was against Naval customs in general.

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1 "I have stated the above according to my
2 memory. I desire that this matter be investigated
3 through the Japanese Navy.

4 "/S/ Hiroshi OSHIMA."
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1 Now, I have just a few additional questions
2 I would like to ask the witness.

3 BY MR. CUNNINGHAM (Continued):

4 Q In the Eugen Ott exhibit No. 1, a telegram
5 from Ambassador Ott to the German Foreign Ministry,
6 dated the 31st of December, 1939, which is attached
7 to the court exhibit No. 3503, transcript pages
8 33,983 to 33,945, Ambassador Ott stated in the
9 last part of the telegram that you were working for
10 the collapse of the Cabinet. Have you any idea what
11 is meant by this statement of Ott?

12 A I know nothing. The Ott telegram just
13 referred to is dated 31 December 1939. Shortly
14 before that on the 10th of December, I returned to
15 Japan after five years of residence abroad, and
16 hence I had no knowledge whatsoever of domestic
17 conditions in Japan. So there would be -- it being
18 shortly after my return and being busy with personal
19 affairs, there would be no reason whatsoever that I
20 should ever participate in any movements or cause
21 for the collapse of the government or to speak of
22 the political situation to others. I may have met Ott,
23 but I can say for certain that I never spoke of such
24 a matter to him.
25

I should also like to add that, not only

1 Now, I have just a few additional questions
2 I would like to ask the witness.

3 BY MR. CUNNINGHAM (Continued):

4 Q In the Eugen Ott exhibit No. 1, a telegram
5 from Ambassador Ott to the German Foreign Ministry,
6 dated the 31st of December, 1939, which is attached
7 to the court exhibit No. 3503, transcript pages
8 33,983 to 33,945, Ambassador Ott stated in the
9 last part of the telegram that you were working for
10 the collapse of the Cabinet. Have you any idea what
11 is meant by this statement of Ott?

12 A I know nothing. The Ott telegram just
13 referred to is dated 31 December 1939. Shortly
14 before that on the 10th of December, I returned to
15 Japan after five years of residence abroad, and
16 hence I had no knowledge whatsoever of domestic
17 conditions in Japan. So there would be -- it being
18 shortly after my return and being busy with personal
19 affairs, there would be no reason whatsoever that I
20 should ever participate in any movements or cause
21 for the collapse of the government or to speak of
22 the political situation to others. I may have met Ott,
23 but I can say for certain that I never spoke of such
24 a matter to him.
25

I should also like to add that, not only

1 at that time but later, I have never participated in
2 any movements for seeking the collapse -- to bring
3 about the downfall of the government.

4 That is all.

5 Q In the Eugen Ott exhibit No. 2, a telegram
6 from Ott to the German Foreign Office, dated the
7 23rd of January, 1940, which is attached to the
8 court exhibit No. 3503, Ott referred to your opinion
9 as to the handling of the Asama-maru incident. Do
10 you recall anything in this connection?

11 A No, my recollection is that I have not
12 talked with Ott on the Asama-maru incident even
13 once. At that time, I had already resigned from my
14 ambassadorship. The Foreign Office was not supply-
15 ing me with any information, and I learned of the
16 Asama-maru incident only from the newspapers. Hence
17 I do not advise or express my views to others with-
18 out knowing the real facts of a situation. I pre-
19 sume that probably Ott used my name because the
20 Asama-maru affair did not progress as he had hoped
21 and desired, and he feared a reprimand from Ribben-
22 trop.

23 Q Now, in the Eugen Ott exhibit No. 3, a
24 telegram from Ott to the German Foreign Minister,
25 dated the 26th of January, 1940, which is attached

1 to the said court exhibit No. 3503, Ott stated that
2 he asked for your opinion concerning the visit of
3 the Duke of Coburg to Japan. Do you recall anything
4 in this connection?

5 A. I recall that Ott called on me and told me
6 that the Japanese Foreign Office had requested that
7 the visit to Japan of the Duke of Coburg be post-
8 poned until after the recess of the Japanese Diet.
9 At that time, the Foreign Office was not -- I was
10 not receiving any information from the Foreign
11 Office and learned of this matter for the first
12 time from Ott. But, not being an important or
13 serious matter, I probably told Ambassador Ott that
14 "you might do just as the Foreign Office advises."
15 Being shortly after my -- being only about one
16 month after my return to Japan and having been
17 spending my time at the hot springs on the Izu
18 Peninsula at the years end and at the beginning of
19 the year, I had, in fact, no knowledge whatsoever
20 that there was anything like an anti-British move-
21 ment going on in Japan. Therefore, there is -- there
22 could not have been any occasion or reasons for my
23 speaking to Ambassador Ott about an anti-British
24 movement. I presume that, in order to make his
25 cablegram better and more smoothly acceptable, he

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1 probably included the anti-British movement by his
2 own arbitrary discretion.
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1 MR. CUNNINGHAM: Mr. Furness, I believe,
2 has some questions to ask at this time.

3 ACTING PRESIDENT: Mr. Furness.

4 MR. FURNESS: For the defendant SHIGEMITSU,
5 further direct examination, your Honor.

6 DIRECT EXAMINATION (Continued)

7 BY MR. FURNESS:

8 Q Ambassador OSHIMA, on last Friday, November 21,
9 General KAWABE testified regarding a trip you made
10 to London. Did you make such a trip?

11 A Yes, I did.

12 Q Did you in the course of the trip discuss
13 with Ambassador SHIGEMITSU the proposed Pact?

14 A Yes, I did.

15 Q Did Mr. SHIGEMITSU express approval or dis-
16 approval of the proposed Pact?

17 A I gained the impression that the accused
18 SHIGEMITSU disapproved. This trip was not made for
19 purposes of study or investigation in connection with
20 this proposed Pact, but was largely a pleasure tour
21 and so we did not go into details in our discussions.
22 And in the course of such discussions the impression
23 I gained, as I have told you, was that he disapproved.

24 MR. FURNESS: No further questions.

25 MR. CUNNINGHAM: No further questions by the

defense.

1 ACTING PRESIDENT: In view of the time, I
2 think we will start the cross-examination this after-
3 noon.

4 We will recess to 1:30.

5 (Whereupon, at 1157, a recess was taken.)
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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2
3 MARSHAL OF THE COURT: The International
4 Military Tribunal for the War East is now resumed.

5 ACTING PRESIDENT: With the Tribunal's
6 permission the accused TOGO will be absent from the
7 courtroom the whole of the afternoon session conferring
8 with his counsel.

9
10 Mr. Tavenner.

11 - - -

12 HIROSHI OSHIMA, an accused, resumed
13 the stand and testified through Japanese inter-
14 preters as follows:

CROSS-EXAMINATION

15
16 BY MR. TAVENNER:

17 Q General OSHIMA, while you were a section chief
18 of the Army General Staff headquarters from August 1,
19 1931 to April 1934, did you confer with the officials
20 of the War Ministry?

21 A What kind of matters are you referring to
22 when you say "confer with"?

23 Q I merely asked you if you conferred; I didn't
24 define the matter.

25 A Yes, there were occasions on which I conferred

1 with the War Ministry whenever such matters were
2 amongst the duties under my charge.

3 Q Were the following accused connected with
4 the War Ministry during this period: ARAKI, as War
5 Minister; MINAMI, as War Minister; KOISO, as director
6 of the Bureau of Military Affairs; and SUZUKI, as
7 member of the Bureau of Military Affairs?

8 A I do not recall the exact years but my
9 recollection is that the persons just named by you,
10 Mr. Prosecutor, were generally there at the time.

11 Q You state on page 47 of your affidavit that
12 you served with TOJO and UMEZU on the General Staff.
13 Were not MATSUI and MUTO also members of the Army
14 General Staff during the period that you were a
15 General Staff officer?

16 A MATSUI was not there at the time I was in
17 the General Staff office but MUTO was there for some
18 time briefly, although I had no direct dealings with
19 him. That is my recollection.

20 Q Did you not also come in contact with
21 Lieutenant General HATA, who was the inspector of
22 artillery from August 1931 to 1933?

23 A No, our duties were completely out of touch.

24 Q Will you please state what official position
25 in the German Government was held by the following

1 persons whose names were signed to various telegrams
2 and memorandums admitted in evidence: Weizsaecker.

3 A He was Vice-Minister of Foreign Affairs
4 during the time I was Ambassador in Berlin.

5 Q Knoll.

6 A He was an officer of a very low level in
7 the Japanese section. I had no contacts with him.

8 Q Japanese section of the Foreign Ministry?

9 A Yes, he was a junior official in the
10 Japanese section of the Larger Asia Bureau in the
11 German Foreign Office.

12 Q Wiehl.

13 A He was director of the Commerce Bureau of
14 the Foreign Office of Germany.

15 Q Woermann.

16 A He was director of the Political Affairs
17 Bureau of the German Foreign Office.

18 Q Erdmanskorf.

19 A Chief of the Japan section of the German
20 Foreign Office.

21 Q Makensen.

22 A Makensen was the predecessor to Weizsaecker
23 as Vice-Minister of Foreign Affairs.

24 Q Scholl.

25 A Will you repeat his name again, please?

1 Q S-c-h-o-l-l.

2 A Probably you are referring to an officer
3 with the rank of either major or lieutenant colonel
4 who was once stationed in Japan and later attached
5 to the German Legation in Siam.

6 Q That is correct. Neumann.

7 A I do not recall him just now.

8 Q Thomas.

9 A There were a number of Thomases but the
10 Thomas that you, Mr. Prosecutor, are probably
11 referring to is a general in the German Army who
12 held the position of director of the technical head-
13 quarters of the German War Ministry -- German
14 Ministry of Defense.

15 Q Rintelen.

16 A Rintelen at first was a subordinate to
17 Woermann, the director of the Political Affairs
18 Bureau of the German Foreign Office, and he later
19 became a member of the secretariat of Foreign Minister
20 von Ribbentrop and later was promoted to the position
21 of ambassador.

22 Q Ambassador to what country?

23 A Ambassador-at-large.

24 Q Schleier.

25 A Schleier was an official with the rank of

1 minister, that is, in the diplomatic sense, and was
2 stationed in Paris as charge d'affaires for quite a
3 long time.

4 Q Now, General OSHIMA, in addition to the
5 instructions that you state you received from the
6 General Staff concerning your duties in Germany, at
7 page 7 of your affidavit, were you not instructed with
8 regard to the proposed pact with Germany that you
9 should try to discover what Germany would do in case
10 of a war between Japan and Russia?

11 A Did your question refer to the time before
12 I left Japan for my post in Germany?

13 Q Yes.

14 A There were no detailed instructions of
15 that kind, but in the performance of my duties I
16 naturally looked into such matters after I arrived in
17 Berlin.

18 Q I did not ask you about detailed discussions
19 in regard to it, but I did ask you if you were not
20 told to try to discover what Germany would do in case
21 of a war between Japan and Russia.

22 A No, I was not so instructed.

23 Q Exhibit 477, page 5913 of the transcript, is
24 an excerpt from your interrogations showing various
25 conferences between you and a German national by the

1 name of Hack regarding a Japanese-German alliance.
2 Was Hack a representative of the Kenkel Airplane
3 Company and was he extensively engaged in selling
4 airplanes and parts to Japan?

5 A No, he was merely in the airplane brokerage
6 business. He had no other job.

7 Q Let me return now to my former question when
8 I asked you about the instructions given you before
9 you left for Germany. Were you not interrogated by
10 Mr. O. G. Hyde, attorney, on February 1 -- on the
11 second day of January 1946 -- I believe it is the
12 first day of February 1946, in which this question
13 was asked you:

14 "Q Continue with your recital of events."
15 and to which this answer was made by you:

16 "A In regard to this pact, before I left
17 Japan to come to Germany I had been told by the
18 General Staff to keep an eye out on how German-Soviet
19 relations were and to try and discover what might
20 happen as far as Germany was concerned in the case
21 of a war with the USSR."

22 Did you or did you not make that statement?
23
24
25

1 A I think the explanations there are somewhat
2 insufficient. In connection with this matter I wish
3 to point out that I state in my affidavit that I was
4 told to be particularly observing in connection
5 with German-Soviet relations, particularly the
6 relations between the armies of the two countries.

7 Q Just a moment, please. Will you answer my
8 question and then make any explanation you desire to
9 make?

10 Did you or did you not make the statement I
11 read from your interrogation?

12 A I don't recall whether I used those exact
13 words, but I am affirming the fact that I spoke of
14 such matters. I should like to add a few words by
15 way of explanation.

16 Q Very well.

17 A As I have stated in my affidavit, I was
18 told by the General Staff Headquarters before I left
19 Tokyo to watch German-Soviet relations, particularly
20 the relations between the German and Soviet armies, so
21 it would be only natural that investigation would be
22 made as to what the army would do in the event of a
23 German-Soviet war -- that is, what the German Army
24 would do in the event of a German-Soviet war.

25 THE MONITOR: Delete the word "army" -- "what

Germany will do."

1
2 A (Continuing) And so in answer to the prose-
3 cutor's question I said that I naturally investigated
4 into German-Soviet relations.

5 THE MONITOR: Japanese court reporter.

6 (Whereupon, the Japanese court reporter
7 read.)

8 THE INTERPRETER: And therefore in answer to
9 the prosecutor's question I said that while in Germany
10 I made a study of the relations between Germany and
11 Russia and how a war between Germany and Russia would
12 develop.

13 A (Continuing) In my understanding the con-
14 tents of my previous interrogations by the prosecutor
15 have been, in a broad sense, included in my affidavit.
16 I do not deny the interrogation, but I should like to
17 add at this time that my instructions -- the instruc-
18 tions given to me prior to my departure for Germany
19 did not so specify.

20 Q Now let us pass on to the questions regarding
21 Hack. Had Hack spent many years in Japan, where he
22 was at one time adviser to the South Manchurian Rail-
23 way Company?

24 A Yes, he did.

25 Q Is it not true that prior to December, 1935,

1 the only treaty which had been contemplated in your
2 discussions with Hack and Ribbentrop was one which
3 provided that in the event of war with the USSR the
4 other party should agree not to carry out any measure
5 which would in effect relieve the position of the
6 USSR?

7
8 A I should like to explain under two points:
9 First, in the event that Russia attacked either Ger-
10 many or Japan without provocation, the point was that
11 in such an event the other party would not take any
12 measures which would in any way lighten the burden
13 of Russia.

14 Q Now, my question is, Was that not the only
15 treaty that was discussed between you, Hack, and
16 Ribbentrop prior to December, 1935?

17 A I have had no discussions with Ribbentrop
18 and Hack at the time referred to by you, and that was
19 what I was on the point of trying to explain to you,
20 that Hack had nothing to do with this, and there were
21 no repeated negotiations with Ribbentrop on a matter
22 like this, nor discussions. At that time the matter
23 had advanced only to the stage where Ribbentrop asked
24 me to find out what the Japanese army thought of such
25 an idea. The contents were as has just been suggested
in your question.

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2 discussions with Hack and Ribbentrop was one which
3 provided that in the event of war with the USSR the
4 other party should agree not to carry out any measure
5 which would in effect relieve the position of the
6 USSR?

7
8 A I should like to explain under two points:
9 First, in the event that Russia attacked either Ger-
10 many or Japan without provocation, the point was that
11 in such an event the other party would not take any
12 measures which would in any way lighten the burden
13 of Russia.

14 Q Now, my question is, Was that not the only
15 treaty that was discussed between you, Hack, and
16 Ribbentrop prior to December, 1935?

17 A I have had no discussions with Ribbentrop
18 and Hack at the time referred to by you, and that was
19 what I was on the point of trying to explain to you,
20 that Hack had nothing to do with this, and there were
21 no repeated negotiations with Ribbentrop on a matter
22 like this, nor discussions. At that time the matter
23 had advanced only to the stage where Ribbentrop asked
24 me to find out what the Japanese army thought of such
25 an idea. The contents were as has just been suggested
in your question.

1 Q Now, those were the only matters that had
2 been discussed prior to December, 1935, is that not
3 true?

4 A Yes, you are right.

5 Q Now, is it not also true with regard to the
6 treaty which had been contemplated and discussed
7 prior to December, 1935, that in the event of war
8 with the USSR there would be immediate consultation
9 between Japan and Germany on the measures that they
10 should take for their common interest?

11 A Yes, I think it was decided that there would
12 be consultation.

13 Q Is it not also true that the German army did
14 not want a military alliance with Japan made public
15 at that time, and in consequence the pact was changed
16 to an anti-Comintern Pact at the suggestion of Germany?

17 A Not only Germany but Japan also had no inten-
18 tion of making it public, and the reason why is that
19 this pact was directed entirely against communism.

20 Q The point I had made is that you have told us
21 that prior to December, 1935, the only pact considered
22 and discussed was the one that we mentioned. I am
23 now asking you whether or not the whole plan was
24 changed at the instance of the German army, which
25 ~~did not want a military pact made public, and there-~~

1 fore suggested that it be converted into an anti-
2 Comintern Pact.

3 A No, that was not so. I should like to say a
4 few words by way of explanation, if I may.

5 Q Proceed.

6 A The matter first discussed was a secret
7 pact, but this was not a military alliance. As the
8 prosecutor suggested just a short while ago, the
9 purpose of the pact was only to the extent of not
10 lightening the burdens of Russia. First of all, I
11 should like to say that the purport of the pact was
12 this, that it only carried very light obligations or
13 duties on the part of the parties to the pact. That
14 is to say, during the time of the Russo-Japanese war,
15 because of the fact that Germany guaranteed the fron-
16 tiers of Russia, Russia sent its armies to Manchuria,
17 and the aim of this proposed pact was to avoid such
18 assistance. It carried only very light obligations
19 and did not have the nature at all of a military
20 alliance.
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1 Q General OSHIMA, you are going right far in
2 your explanation, beyond the question that I asked
3 you. Can we not answer the matter this way: is it
4 not true that Germany suggested that the arrangement
5 which you had been discussing should be converted
6 into an anti-comintern pact? I think you could
7 answer that question yes or no.

8 A No.

9 THE INTERPRETER: The witness replied "No."

10 Q I will ask you if this further question was
11 not asked you on your interrogation on the same day
12 as the previous one:

13 "Q While you were conducting these negotia-
14 tions you have so fully explained to us, were
15 you then contemplating that there would be two
16 treaties instead of just one?

17 "A Prior to December 1945--" that is, of
18 course, an error, it should be 1935--"and the
19 arrival of Lieutenant Colonel WAKAMATSU in Ber-
20 lin, the only treaty which had been contemplated
21 was the aforementioned one where the two nations
22 would agree not to entlaften the U.S.S.R. in
23 case of war. The Germans, however, said that
24 this would be a very weak treaty and, therefore,
25 suggested the Anti-Comintern Pact, and that was

the first time that the matter came up."

1 Now, did you, or did you not, make that statement?

2 A I did not, and it is contrary to the facts.

3 Q Did WAKAMATSU express your views with re-
4 gard to the results to be obtained by Japan in con-
5 cluding an anti-comintern pact with Germany when he
6 stated in his cross-examination here that by the
7 conclusion of such a pact Japan could forestall
8 Germany from drawing closer to Russia, obtain the
9 necessary intelligence and new type weapons from
10 Germany, and also keep Germany from taking sides with
11 China?
12

13 A I heard what WAKAMATSU said here in this
14 Tribunal, but I have not had any occasion to speak
15 of such matters with WAKAMATSU.

16 Well, there are various fruits to be ob-
17 tained by the conclusion of a pact, but the purpose
18 of the Anti-Comintern Pack is as I have set forth in
19 my affidavit.

20 Q Well, my question was whether or not those
21 views of WAKAMATSU were your views also. If you agree
22 with them, say so; if you do not, say you do not.

23 A Yes, such fruits would accompany as a result
24 of the pact.

25 MR. TAVENNER: I am sorry, I did not understand

1 your translation. Would you repeat it?

2 (Whereupon, the answer was read
3 by the official court reporter.)

4 Q At the time of the conclusion of the Anti-
5 Comintern Pact, 25 November 1936, Germany had not yet
6 emerged as the powerful and aggressive nation she
7 later became, is that not so?

8 A Well, I cannot say whether Germany was
9 aggressive or not. But the fact that it was in the
10 midst of revival and later became a strong power is a
11 fact, that is a fact.

12 Q You knew and recognized at that time the
13 great potential might, military might of the new
14 Germany dominated by Hitler and the Nazi Party, didn't
15 you?

16 A Yes.

17 Q It is true, is it not, that you sponsored
18 and aided the conclusion of the Anti-Comintern Pact
19 in the belief that by linking Japan to Germany in the
20 midst of huge military preparations, Japan would be
21 aided and strengthened in its position in Manchuria
22 and in its policy which was then being executed in
23 North China?

24 A No, not so. My position is as I have set
25 forth in my affidavit.

1 Q Is it not true that on 6 November 1937
2 Italy was recruited as a member of the pact?

3 A I do not remember the date exactly, but about
4 a year later Italy joined the pact. But I had no con-
5 nection with Italy joining the pact.

6 Q You likewise knew that at the time of the
7 admission of Italy to the Anti-Comintern Pact and
8 during the period of negotiations with regard thereto
9 that the League of Nations had, on 7 October 1935,
10 declared Italy an aggressor against Ethiopia, and that
11 Italy, following the example of Japan in Manchuria,
12 accomplished the occupation of Ethiopia on 2 May 1936,
13 didn't you?

14 A I do not recall, but if the dates just re-
15 ferred to by the prosecutor are correct, I suppose
16 that I have read of them in the newspapers. As I
17 have said before, I had no part to play in the nego-
18 tiations vis-a-vis Italy joining this pact. But with
19 regard to Italy joining the Anti-Comintern Pact, there
20 was nothing to prevent her in the common fight, or
21 common defense against communism.

22 Q By admitting Italy into the so-called Anti-
23 Comintern Pact you believed and recognized, did you
24 not, that by so doing Japan would further strengthen
25 her hand in China, and at the same time would further

1 secure her rear against Russia so as to give her a
2 free hand in China, didn't you?

3 A As I have said before, as a public official
4 I had no part to play in these negotiations. But if
5 you are asking me for my personal opinions, then I
6 would say that, as I have already stated in my affi-
7 davit, as to the purpose of the Anti-Comintern Pact
8 at the time it was concluded between Germany and Japan
9 there was no intention of applying or utilizing this
10 treaty in connection with China.

11 I should like to add here that if you would
12 only see and read the preamble of the Anti-Comintern
13 Pact it would be obvious to you that the purpose of
14 the pact was to form a common defense against the
15 communists who were actually, and were intending, to
16 interfere in the internal domestic affairs of other
17 countries. It was not the purpose of this treaty to
18 interfere in the communist parties in each country.

19 Q I was not attempting to read merely the
20 lines of the pact, I was trying to read behind the
21 pact and see what the real motive is that you had in
22 adopting it.

23 A There was nothing underneath or in back of it.

24 Q Now, while the negotiations for the Anti-
25 Comintern Pact were pending, was General Ott, the

1 Military Attache in Japan, recalled to Germany?

2 A Yes, he returned to Germany.

3 Q During the period of negotiation did
4 SHIMAZU, then Ambassador to Sweden, make frequent
5 trips to Berlin where you and he had conversations
6 in which you discussed the pact?

7 A There was one more word that I had wished
8 to add when the red light cut me off. May I, in
9 connection with the previous question?

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1 Q Proceed.

2 A Ott did not return to Germany in connection with
3 the Anti-Comintern Pact. He returned to Germany as did
4 military attaches in other countries, that is, German
5 military attaches in other countries, to attend a large
6 war maneuvers which was held in Germany for the first
7 time.

8 Now I shall reply to the last question. The
9 accused SHIRATORI was never at any time connected with
10 the negotiations or the conclusion of the Anti-Comintern
11 Pact.

12 Q That wasn't my question. Did you meet SHIRATORI
13 on a number of occasions in Berlin and discuss with him
14 the provisions of this pact?

15 A No. SHIRATORI did make visits but on other
16 matters.

17 Q When he visited Berlin on other matters did
18 he and you discuss matters relating to this pact? I
19 think you can answer that yes or no.

20 A No, he did not.

21 Q Did you not in your interrogation advise Mr.
22 Hyde that you had discussed the pact several times with
23 SHIRATORI in Berlin?

24 A No. If so, it would be a mistake on the part
25 of the interrogator. I replied as follows: My

1 recollection is, in connection with what I told the
2 interrogator, is that SHIRATORI during this period had
3 come to Berlin on visits and that the matter of this
4 pact had been mentioned to him but that no discussions
5 as to the contents of the pact was held between him and
6 me.

7 Q Then you are drawing a distinction between
8 mentioning the pact to him and discussing it.

9 A Of course. I should like to explain. When
10 he came to Berlin it was mentioned to him that such
11 a pact was now under negotiation. but no mention was
12 made of any contents or what was to be done in the future
13 or any discussions held in connection therewith. This
14 was the first time that I had ever met SHIRATORI; I
15 hadn't known him before.

16 Q Exhibit 497, page 6,051 of the transcript, is
17 an excerpt from your interrogation in which you state
18 that in January 1938 Ribbentrop asked you if there was
19 not some way in which Germany and Japan could be brought
20 closer together. At about this time you learned, did
21 you not, that Germany, which had hitherto opposed
22 Japanese aggression in China, reoriented its views toward
23 the China conflict and began to support the Japanese
24 policy in China?

25 A I do not think that policy changed after

January 1938.

1 Q Well, you knew, did you not, that about this
2 time Chancellor Hitler was successful in assuming his
3 full role as a dictator, had assumed command of the
4 army, had ousted Neurath and had appointed Ribbentrop
5 as Foreign Minister, didn't you?

6 A There were such personnel changes in February
7 1938, if I am not mistaken in my recollection, and I
8 know about them. I should like to add a few words.

9 Q You knew they were very significant changes,
10 did you not?

11 A Of course, as a result various policy changes
12 took place. I think it would be more correct to say
13 that men came underneath Hitler who were capable of
14 executing Hitler's own policy. I do not think it would
15 be correct to say that there was any fundamental change
16 of policy.

17 With regard to Germany's China policy, there
18 were various discussions and arguments pro and con within
19 Germany after the outbreak of the China Affair. There
20 was -- especially there was opposition in German
21 economic circles but with the passage of time their
22 influence waned. Thereupon, this personnel change took
23 place and as a result some changes in policy took place,
24 but there was no radical change from white to black or
25

black to white or from east to west.

1 Q Now you said that the influence of the economic
2 circles waned. As a matter of fact, it disappeared
3 entirely when Hitler assumed command of the army in
4 February 1938, isn't that true? That is, as far as
5 China was concerned.
6

7 A It was weakened, yes, but it did not disappear.

8 Q Now, notwithstanding these signs of the times
9 you advocated and supported in every possible way the
10 conclusion of another treaty, a military alliance with
11 Germany, a nation that you then knew in 1938 was bent
12 on aggressive action, didn't you?

13 A Before replying to the question may I state
14 that in view of the fact that the words "military
15 alliance" are being frequently used in the course of
16 this examination I would first of all like to obtain
17 from the prosecutor what he means by a military alliance.

18 Q I will ask you did you not favor a military
19 alliance between Germany and Japan in 1938?

20 A I would like to reply to that question after
21 you clarify for me your definition of military alliance.

22 Q Well, I will ask you again whether or not you
23 favored a military alliance. I think you can answer
24 yes or no and then if you desire to define what kind
25 of alliance you are speaking of you are permitted to do

so.

1 / It would be difficult for me to reply to your
2 question unless I, first of all, have an understanding
3 of the character and nature of the military alliance
4 to which you are referring. If you are referring to a
5 pact entered into between two countries in which the
6 exercise of armed force is stipulated I will have one
7 answer to give to that. If, however, on the other hand
8 you are referring to a military alliance in which the
9 contracting powers have stipulated offensive or aggressive
10 action of any kind, then I will have to answer in accord-
11 ance with that definition. That is why I should like
12 to have a definition of a military alliance first
13 clarified.
14

15 If it is the former definition to which I
16 referred, my answer would be "yes."

17 ACTING PRESIDENT: We will recess for fifteen
18 minutes.

19 (Whereupon, at 1445, a recess was
20 taken until 1500, after which the proceedings
21 were resumed as follows:)
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1 THE MONITOR OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE MONITOR: Mr. Prosecutor, the last
4 answer, the answer of the witness was not trans-
5 lated sufficiently. So we will have it reread by
6 the Japanese court reporter.

7 (Whereupon, the Japanese court
8 reporter read.)

9 THE INTERPRETER: Slight correction to
10 the latter part of the witness's last answer:
11 "If I am permitted to reply according to the first
12 definition I can forthwith reply yes or no.

13 BY MR. TAVENNER (Continued):

14 Q Let me put the question to you this way.
15 Did you, in fact, advocate an alliance between Japan
16 and Germany which would obligate Japan to engage in
17 war in the event of war between Germany and Russia?

18 A I said that Japan was obligated to render
19 Germany armed assistance in the event Germany was
20 attacked by Russia without provocation. In my
21 negotiations with Germany I contended that the exer-
22 cise of the obligation of armed assistance depended
23 entirely on the situation and circumstances at the
24 time, and that Japan was not obliged to perform such
25 obligations automatically. I conducted my negotiations

with Germany along this line in accordance with the instructions from the home government.

3 Q Now, it is also true, is it not, that you
4 advocated an alliance with Germany and obligated
5 Japan to participate in a European War between
6 Germany and England whether Russia was in the war or
7 not?

8 A It would be as clear as day that I did not
9 advocate such an alliance if you will see exhibit
10 2619.

11 Q Will you please answer my question? Did
12 you advocate such an alliance or not?

13 A I did not.

14 Q You did not advocate such an alliance at
15 any stage of the negotiations?

16 A No, not at any stage.

17 Q Did you oppose Ribbentrop's request that
18 such an alliance be entered into?

19 A The objection, opposition came from Japan.

20 Q Will you answer my question?

21 A I am not trying to evade your questions, but
22 it is not possible to answer yes or no when a question
23 is referring to something of a complicated nature.

24 Q That is a very simple question. Did you
25 oppose Ribbentrop's request that Japan unite in an

1 alliance obligating Japan to engage in a European
2 war in the event England was at war with Germany?

3 A Ribbentrop did not make any such request.
4 That would be very clear if you would see my affi-
5 davit.

6 Q Then you did not oppose Ribbentrop's views
7 and what Ribbentrop was requesting?

8 A No, there was no question arose in connec-
9 tion with bringing England in -- or British involve-
10 ment.

11 Q Was the accused TOGO the Japanese Ambassador
12 to Germany during the period of the negotiations of
13 this alliance up to October of 1938?

14 A Yes, he was Ambassador up to the end of
15 October.

16 Q Shortly after you were advised of the
17 decision of the Five-Ministers' Conference held in
18 the latter part of August 1938, were you directed to
19 inform Ambassador TOGO of all the matters relating
20 to the proposed alliance, and were you further
21 directed to continue the negotiations in your capacity
22 as military attache?
23

24 MR. CUNNINGHAM: I hesitate to interfere,
25 but I object for the reason that there are two
questions involved there, and the questions are so

1 unwieldingly long that it is very difficult to
2 follow them generally.

3 ACTING PRESIDENT: I think you can divide
4 your question into two parts.

5 Q Now, were you directed to inform TOGC of
6 the matters relating to the proposed alliance?

7 A Yes, I had directions with regard to certain
8 parts. I should like to say a few words by way of
9 explanation.

10 Q Very well.

11 A As I have stated in my affidavit, I was
12 informed by the army with regard to the result of
13 the Five-Ministers Conference, and I was directed
14 to transfer the negotiations to official channels
15 as soon as possible and to report to Ambassador
16 TOGO the progress up to that time in connection with
17 the negotiations. While on the one hand requesting
18 the German side to transfer the matter to official
19 diplomatic channels, I reported to Ambassador TOGO
20 the progress of the talks on this matter up to that
21 time, and that was only once.

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1 Q Now, may I interrupt you? That is nothing
2 but a detailed statement of your answer "Yes," and
3 I think adds nothing to the answer "Yes."

4 A I should like to add a few words. Now, as I
5 understand the question, you asked me whether I reported
6 on the progress of the negotiations and you asked me
7 as another part of your question, whether I was
8 constantly making reports, and it is difficult for me
9 to reply yes to these two questions at the same time
10 and, therefore, I said in connection with the first
11 that I made a report once.

12 Q All right. Did you make any other reports?

13 A No, no reports were made because I was not
14 carrying on any negotiations.

15 Q Were you not also directed to continue the
16 negotiations in your capacity as Military Attache?

17 A No.

18 Q Were you not, during the same interrogation,
19 asked about that matter by Mr. Hyde, at which time this
20 question was asked and the answer that I will read was
21 made:
22

23 "Q Does that mean this, General, that the
24 matters had now reached the stage that you were to keep
25 the Ambassador informed of what was going on, but you
still continued the negotiations in your capacity as

1 Military Attache?

2 "A Yes."

3 Did you so answer to that question?

4 A No, that is not so, because no instructions
5 or directions came, and in the absence of instructions
6 there would be no occasions for me to do anything of
7 the kind. The contents of that interrogation are
8 contrary to the facts.

9 Q I asked you whether or not you made that reply
10 to that question. Will you please answer yes or no?

11 A No, I did not.

12 Q When did you confer with Ambassador TOGO and
13 make your report with the information regarding the
14 proposed alliance?

15 A As soon as I was notified of the decision of
16 the Five Ministers' Conference, I went to see Amba-
17 sador TOGO because I was so instructed and, therefore,
18 I think it was in the first part of September.

19 Q Had you discussed these matters with Ambassador
20 TOGO prior to that time?

21 A No.

22 Q Did you discuss them with him after that time?

23 A As I have already answered, no.

24 Q Did you give Ambassador TOGO all the informa-
25 tion you had regarding this proposed alliance?

1 Military Attache?

2 "A Yes."

3 Did you so answer to that question?

4 A No, that is not so, because no instructions
5 or directions came, and in the absence of instructions
6 there would be no occasions for me to do anything of
7 the kind. The contents of that interrogation are
8 contrary to the facts.

9 Q I asked you whether or not you made that reply
10 to that question. Will you please answer yes or no?

11 A No, I did not.

12 Q When did you confer with Ambassador TOGO and
13 make your report with the information regarding the
14 proposed alliance?

15 A As soon as I was notified of the decision of
16 the Five Ministers' Conference, I went to see Amba-
17 sador TOGO because I was so instructed and, therefore,
18 I think it was in the first part of September.

19 Q Had you discussed these matters with Ambassador
20 TOGO prior to that time?

21 A No.

22 Q Did you discuss them with him after that time?

23 A As I have already answered, no.

24 Q Did you give Ambassador TOGO all the informa-
25 tion you had regarding this proposed alliance?

1 A As I have already answered, I spoke to him
2 in accordance with instructions which I received from
3 the army when the Five Ministers' decision was reported
4 to me. So there was no occasion prior to that.

5 Q You apparently have misunderstood my question.
6 Did you report to Ambassador TOGO and give him all the
7 information that you had regarding the proposed alliance?

8 A No, I only reported to him the main highlights.
9 Already at that time Ambassador TOGO was in receipt of
10 a telegram from the Foreign Ministry giving the details
11 of the matter, the general details of the matter --
12 the general purport of the matter.

13 Q And did you discuss the general purport with
14 Ambassador TOGO?

15 A No, there was no discussion because there was
16 no desire for such on the part of Ambassador TOGO. I
17 merely reported to him.

18 Q Did TOGO express himself in accord with the
19 plan of the proposed pact?

20 A As I have said before, I had no discussion
21 on this matter with Ambassador TOGO. But the impression
22 that I obtained was that he disapproved of it.

23 Q To what extent did he disapprove of it?

24 A As I have said before, no detailed discussion
25 of this matter took place between Ambassador TOGO and

1 I, so I cannot say on what points he disapproved and
2 what points he did not.

3 Q I will see if I can refresh your recollection
4 about that. Did you not, in the interrogation referred
5 to, in answer to a question by Mr. Hyde as to TOGO's
6 attitude, state: "As I know it, he wished to have it
7 only in so far as Russia was concerned."

8 Q Did you make that reply to Mr. Hyde? Please
9 answer yes or no.

10 A No, not exactly in those words, but only to
11 some extent to that effect. But I should like to
12 reply anew in order to clarify the matter.

13 Q Before you reply anew: Did that accurately
14 represent your answer to the question that Mr. Hyde
15 asked you?

16 A No.

17 Q In what way did your answer differ from what
18 I have stated, according to your contention?

19 A I said that my impression of Ambassador TOGO
20 was that I can say with certainty that he was in dis-
21 approval of expanding the matter to include Britain
22 and France.

23 Q But that he was in favor as far as Russia was
24 concerned, isn't that true?

25 A I had no discussion with him, nor did I ask

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for his opinions to the extent that I can say so unequivocally.

1 Q Now, if it was a matter of disagreement on
2 the part of TOGO to extend the pact to England, and
3 I believe you said France, then there must have been
4 discussed between you a plan by which Japan would be
5 obligated to participate in war in the event of a
6 German-English War?

7 A There was no discussion. I wish to say, as
8 I have stated in my affidavit, that Germany's first
9 proposal included all countries according to the text
10 proposed. And so from a view at the text of the
11 treaty alone, that is to say, the provisions of the
12 treaty proper, it would appear as if the pact was
13 directed at all countries. But, as I have stated in
14 my affidavit, in order to put restrictions on this a
15 secret understanding between the two countries was
16 proposed.

17 Q I would prefer that we discuss those matters
18 a little later. I am going to ask you questions that
19 will enable you to express your views presently about
20 that.

21 Let me ask you: Did you advise the General
22 Staff and War Minister ITAGAKI of the views of
23 Ambassador TOGO; that is, the view that he did not
24 favor extending the pact against England and France?
25

A No.

1 Q How long was it after your conference with
2 TOGO that you received a communication from the
3 General Staff suggesting that you become the Ambassador?

4 A I think it was shortly after; the first part
5 of September.

6 Q Did not War Minister ITAGAKI consult the
7 Foreign Minister about your appointment as Ambassador?

8 A As I have stated in my affidavit, I had no
9 knowledge whatsoever as to what kind of discussions
10 took place back home.

11 Q Well, you do know, do you not, that your
12 appointment was urged by the War Ministry and the
13 General Staff?

14 A No, I did not know.

15 Q There appear on your order list the credentials
16 given you twice by the Emperor of Japan for delivery
17 to Germany upon your arrival there as Ambassador on
18 the two occasions you were appointed.

19
20 MR. CUNNINGHAM: I would like to object to
21 any reference to the documents which are not in
22 evidence and since we are not contemplating offering
23 the documents into the record they would be incompetent
24 and immaterial here.

25 ACTING PRESIDENT: What is the materiality,
Mr. Tavenner?

1 MR. TAVENNER: I merely wanted to show the
2 form and the character of them, which I can only do
3 by cross-examination of the witness. Of course,
4 after he leaves the stand I will not have an opportunity
5 to ask him about his own credentials.

6 ACTING PRESIDENT: You can ask him about what
7 credentials he has, but you cannot refer to credentials
8 that have not been introduced into evidence.

9 MR. TAVENNER: I will confine the question
10 accordingly.

11 BY MR. TAVENNER (Continued)

12 Q You took with you to Germany when you were
13 appointed Ambassador on the first and also on the
14 second occasion your proper credentials, of course?

15 A Yes, I took my credentials the second time,
16 but not the first time because I was in Germany when
17 I received the appointment. It was sent to me.

18 Q The credentials were addressed, of course,
19 to Hitler, were they not?

20 A Yes.

21 Q And they were merely a standard form used for
22 ambassadors, no matter where appointed or to what
23 country?

24 A Well, I cannot reply with any sense of sureness
25 because I have never had the occasion to compare my

1 credentials with those -- with credentials of other
2 countries, but I presume that they are about the
3 same.

4 Q I did not mean to make the question that
5 broad. Your credentials were in the same form, the
6 same standard form, as all credentials issued by
7 your government, were they not?

8 A I suppose so, yes.

9 Q Now, after the conference that you stated
10 you had with Ambassador TOGO did you carry on negotiations
11 with Ribbentrop regarding the proposed alliance while
12 you were still Military Attache?

13 A No.

14 Q Did you discuss the matter with Ribbentrop?

15 A No, because there were no data upon which to
16 pose such discussions.

17 Q When was the first time that you consulted
18 Ribbentrop after the receipt of the information re-
19 garding the action of the Five-Minister Conference? In
20 the latter part of August '39? I meant to say '38.

22 A Yes, soon after.

23 Q How soon after?

24 A One or two days.

25 Q When was the next time that you saw him and
talked to him about the pact?

1 A There was talk about it, but no discussion.

2 Q When?

3 A I have no exact recollection, but about the
4 time KASAHARA returned to Berlin.

5 Q What was that date?

6 A Since KASAHARA returned to Berlin some time
7 around the 20th of September, it was a few days after
8 that; some time in the September 20's.

9 Q And you were still Military Attache at that
10 time?

11 A Yes.

12 Q And you conveyed to Ribbentrop certain
13 information regarding the pact at that time, did you
14 not, without consulting the Ambassador?

15 A The instructions I received from Japan was
16 to convey the information to Ribbentrop.

17 Q Then you were directed to continue with the
18 negotiations as Military Attache, is that true?

19 A I received no such direction. If I were
20 permitted to give you just a brief explanation, you
21 will understand the whole situation. May I be permitted
22 to do so?
23
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1 Q Yes.

2 A A rather detailed report on the decision
3 of the Five Ministers Conference was sent to me.
4 As I have stated in my affidavit, the main points
5 of the telegraphic instructions sent to me in con-
6 nection with this decision was that I should talk to
7 Ribbentrop and to see to it that the matter was
8 transferred to official diplomatic channels as soon
9 as possible.

10 At the same time, there were a number of
11 revisions made to the German proposal. At this
12 date, I do not recall everything because there were
13 quite a large number of revisions proposed by Japan,
14 such, for instance, as: whereas the German side
15 desired a mutual assistance pact, the Japanese
16 desired a consultative pact, the addition of a
17 secret protocol, and about the adding of such
18 qualifying remarks as, "without provocation," and
19 so forth.

20 Q Let me interrupt you there a moment. What
21 was the date of the instructions or suggestions from
22 Japan to which you are just now referring?

23 Q I have no exact recollection as to dates,
24 but I think it was almost the end of August, some-
25 where around the 29th of 30th or the 1st or 2nd day

1 of September.

2 And the instructions which I received was
3 to hand the Japanese revisions . over to Ribbentrop
4 informally and to request him to draw up a proposal,
5 incorporating the revisions offered by Japan -- the
6 revisions proposed by Japan. But, whereas the
7 progress on that matter was rather rapid in Japan,
8 the German side was not prepared internally inasmuch
9 as the offer had been -- the proposal had been at
10 this point an informal one, and the German side had
11 not discussed the matter fully amongst themselves
12 or had taken the matter up with Italy, and therefore
13 the German desire was to have us wait for a short
14 while.

15 Q Let me interrupt you. Your explanation is
16 going far beyond anything involved in my question,
17 and you will have abundant opportunity to go into
18 those matters as they arise.

19 Now, I think you have told us this after-
20 noon on cross-examination that when Ribbentrop sub-
21 mitted his proposal to you in July, 1938, that he
22 suggested a mutual aid treaty aimed not only at the
23 U.S.S.R. but at all countries, is that true?

24 A That is, the text of the treaty so states
25 on its face. Actually, it was not so.

1 Q Well, then, will you tell me whether he did
2 make that proposal to you, or did he not?

3 A He did not propose a general mutual assist-
4 ance pact. On the face -- the text of the treaty
5 so states, but actually there were restrictions or
6 limitations applied to it.

7 Q I asked you this specific question: Did
8 Ribbentrop make a proposal to you in July, 1938,
9 suggesting a mutual aid treaty aimed not only at
10 the U.S.S.R. but at all countries?

11 A He did not.

12 Q Did you not tell Mr. Hyde that he did?

13 A No, I did not. I told Mr. Hyde of the
14 limitations placed on that treaty -- that proposed
15 treaty. As I have said before, it is so suggested
16 on the face of the treaty -- the text of the treaty,
17 but there were many limitations placed thereon, and
18 there should be limitations. To state more specific-
19 ally, I refer to exhibit 2919, the draft of the
20 secret protocol which was to be attached to the
21 proposed pact from the very beginning.

22 Q I will ask you this question: Did you not
23 in reply to a question by Mr. Hyde make this answer:
24

25 "To the best of my knowledge, the following
is more or less what he said on this occasion:"

1 Q Well, then, will you tell me whether he did
2 make that proposal to you, or did he not?

3 A He did not propose a general mutual assist-
4 ance pact. On the face -- the text of the treaty
5 so states, but actually there were restrictions or
6 limitations applied to it.

7 Q I asked you this specific question: Did
8 Ribbentrop make a proposal to you in July, 1938,
9 suggesting a mutual aid treaty aimed not only at
10 the U.S.S.R. but at all countries?

11 A He did not.

12 Q Did you not tell Mr. Hyde that he did?

13 A No, I did not. I told Mr. Hyde of the
14 limitations placed on that treaty -- that proposed
15 treaty. As I have said before, it is so suggested
16 on the face of the treaty -- the text of the treaty,
17 but there were many limitations placed thereon, and
18 there should be limitations. To state more specific-
19 ally, I refer to exhibit 2919, the draft of the
20 secret protocol which was to be attached to the
21 proposed pact from the very beginning.

22 Q I will ask you this question: Did you not
23 in reply to a question by Mr. Hyde make this answer:
24

25 "To the best of my knowledge, the following
is more or less what he said on this occasion:"

1 I am referring now to Ribbentrop.

2 "1. That what he said was not based on
3 talks with Hitler or any other official and,

4 "2. That he felt that Germany would not
5 particularly approve or like a treaty agreeing to
6 consult only and that was somewhat one-sided and
7 not strong enough, and,

8 "3. That he suggested a mutual aid treaty
9 instead, aimed not only at the U.S.S.R. but all
10 countries"?

11 Did you make that statement or not?

12 A Yes. The discussion did not end there.
13 There should be more to it.

14 Q I will read the rest of the answer:

15 "In other words, what he meant was that a
16 German-Japanese Pact would, if strong enough, hope
17 to preserve world peace. Germany was particularly
18 fond of statements of this sort at the time."

19 Now, did you not make that statement?

20 Q Ribbentrop did say that he disapproved of
21 a consultative pact and to placing any limitations
22 on the treaty, but --

23 Q Will you please answer my question? Did
24 you make the statement that I read, or did you not?

25 A Yes, I am supposed to have said that. I did.

1 I recall what Ribbentrop told me.

2 Q Why didn't you say that long ago?

3 A Well, if the discussion was cut off there,
4 then it would create a misunderstanding. The most
5 important part was omitted.

6 ACTING PRESIDENT: Never mind the "rest"
7 part. You just answer the questions the prosecutor
8 asks you. If there is any misunderstanding, your
9 counsel will clear it up on re-examination.

10 THE WITNESS: I understand. Thank you.

11 Q What was the date of the Five Ministers
12 Conference which considered the proposal brought
13 by KASAHARA?

14 A I do not recall the exact date, but in the
15 end of August, very late in August.

16 MR. TAVENNER: I understand counsel desires
17 to make a statement of some type. Possibly, I
18 should wait till he makes it.

19 MR. CUNNINGHAM: Before we adjourn today,
20 I wish to object to any further evidence on this
21 matter under discussion for the reason that it is
22 immaterial since the negotiations failed utterly.
23 The prosecution has already spent days of time on
24 these abortive negotiations.

25 ACTING PRESIDENT: Mr. Tavenner.

1 MR. TAVENNER: If the Tribunal please, the
2 fact of failure or success in the plan that was
3 being made here is immaterial as far as the con-
4 spiracy Count is concerned. In addition to that,
5 the efforts that were being made at this time bore
6 fruit in later periods, and it is all an important
7 step in what occurred in bringing about the assist-
8 ance of Germany to Japan.

9 ACTING PRESIDENT: Objection overruled.

10 We will adjourn until nine-thirty Friday
11 morning.

12 (Whereupon, at 1600, an adjourn-
13 ment was taken until Friday, 28 November
14 1947, at 0930.)

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28 NOVEMBER 1947

I N D E X
Of
WITNESSES

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I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc</u>
3269		3514	Telegram (War Ministry No. 235)		34116
3271		3515	Explanations concerning War Ministry Telegram No. 236		34116
3268		3516	The January 1940 issue of "Bungei Shunju"	34152	
3268-A		3516-A	Excerpt therefrom - The Idea of German Diplomacy		34152
		3517	The "Dai-Asia Shugi" for 1940	34180	
2377-A		3517-A	Excerpt therefrom - The Tri-partite Alliance and the United States of America		34180

1 Friday, 28 November 1947

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4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -
12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
15 WEBB, Member from the Commonwealth of Australia, not
16 sitting from 0930 to 1600.

17 For the Prosecution Section, same as before.

18 For the Defense Section, same as before.

19 - - -
20 (English to Japanese and Japanese
21 to English interpretation was made by the
22 Language Section, IMTFE.)
23
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo cer-
6 tifying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 Mr. Tavenner.

9 - - -

10 H I R O S H I O S H I M A, an accused, resumed the
11 stand and testified through Japanese interpreters
12 as follows:

13 CROSS-EXAMINATION

14 BY MR. TAVENNER (Continued):

15 Q General OSHIMA, the following questions and
16 answers appear in your cross-examination of Wednesday,
17 page 34,100 of the transcript:

18 "Q Did not War Minister ITAGAKI consult the
19 Foreign Minister about your appointment as Ambassador?

20 "A As I have stated in my affidavit, I had no
21 knowledge whatsoever as to what kind of discussions
22 took place back home.

23 "Q Well, you do know, do you not, that your
24 appointment was urged by the War Ministry and the
25 General Staff?

1 "A No, I did not know."

2 Now, General OSHIMA, I desire to ask you
3 were not the following questions propounded to you in
4 the interrogation of February 4, 1946, by Mr. Hyde and
5 the following answers made by you regarding this matter:

6 "Q Is it not a fact that the military authorities
7 urged your appointment as an ambassador?

8 "A Yes, I think so.

9 "Q Will you tell us what military officials
10 urged or suggested your appointment?

11 "A I do not know any particular individuals but
12 I believe it was General Staff headquarters and the
13 War Ministry.

14 "Q And can you tell us any other organizations
15 or individuals who urged your appointment to that
16 position?

17 "A No, I do not know of any others. Those that
18 advocated my appointment were the army in particular.
19 In the fall of 1938, without my knowledge, the army in
20 Japan had apparently put forward my name for the
21 ambassadorship and I received a telegram from General
22 Staff headquarters requesting me to take the post. I
23 refused to do this saying that I was a soldier and not
24 a diplomat, but they urged me time and time again and
25 I refused so often until finally I was more or less

forced to take the job. At this time General TADA

1 was Chief of Staff and General Staff headquarters had
2 such men as Major General KASAHARA and General HOMMA.

3 "Q Do I understand then that in so far as your
4 appointment as ambassador was concerned the only
5 authorities or only people that urged your appointment
6 and wanted your appointment were the General Staff
7 headquarters and War Minister?

8 "A To the best of my knowledge, from my distant
9 vantage point in Berlin, there were no others but the
10 ones I named before. I reiterate that I am not a
11 member of any army group.

12 "Q Who was the War Minister that urged your
13 appointment?

14 "A General ITAGAKI, I believe."

15 Now, were those questions asked you and those
16 answers made by you?

17 A Yes.

18 Q At page 34,104 you testified on cross-examina-
19 tion that somewhere around or between the 29th of
20 August and the 2d of September you received a rather
21 detailed report on the decision of the Five Ministers
22 Conference in which a number of revisions were made to
23 the German proposal. Was that report made in one or
24 two telegrams?
25

1 A I do not now recall the number.

2 Q Were there more than one?

3 A I think there were more than one.

4 Q I hand you prosecution document 3269 in the
5 Japanese text which purports to be a copy of a
6 telegram. Do you recognize it?

7 A Will you wait just a moment?

8 May I reply? Generally speaking, this seems
9 to jibe with the circumstances at that time, but I
10 cannot say because I have no definite recollection
11 whether the entire document is correct inasmuch as
12 these matters took place quite a long time ago.

13 Q But to the best of your knowledge that is
14 the purport of the telegram that you received the
15 latter part of August 1938, is it not?

16 A I cannot quite say that because at this date
17 I do not know what else was incorporated in the tele-
18 gram nor am I able to know now what explanations had
19 been added to the telegram and, therefore, I am unable
20 to confirm this document.

21 Q But as far as the document goes it does
22 contain the information which you received by tele-
23 gram the latter part of August 1938, does it not?

24 A It is certain that I received a telegram
25 toward either the end of August or the first part of

1 September in 1938. This telegram is dated 1938.
2 Contents somewhat to the effect contained in this
3 document were in the telegram but whether the tele-
4 gram which I received exactly contained the informa-
5 tion here or whether there were any explanations
6 added to the telegram or whether there were any other
7 items listed in the telegram in addition to these
8 matters I am unable to say because I have no recollec-
9 tion at this date and, therefore, I cannot say that
10 this is the exact telegram which I received at that
11 time.

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1 MR. TAVENNER: I offer in evidence IPS
2 document 3269.

3 MR. CUNNINGHAM: Objected to for the reason
4 that it is not properly identified and not accepted
5 as authentic.

6 MR. TAVENNER: In reply I would state that
7 the witness has said that there may have been other
8 things in the original telegram not included in this
9 but that matters contained in this telegram were in
10 substance what he received.

11 ACTING PRESIDENT: By a majority, the objec-
12 tion is overruled. The document will be received in
13 evidence.

14 CLERK OF THE COURT: Prosecution document
15 3269 will receive exhibit No. 3514.

16 (Whereupon, the document above
17 referred to was marked prosecution ex-
18 hibit No. 3514 and received in evidence.)

19 MR. TAVENNER: I will read exhibit 3514:

20 "The following telegram is War Ministry
21 Telegram No. 235:

22 "1. Both the Army and Navy are in agreement
23 with the purport of the treaty plan which was brought
24 by Major General KASAHARA. The opinion to adopt this
25 concurred upon the following conditions:

1 MR. TAVENNER: I offer in evidence IPS
2 document 3269.

3 MR. CUNNINGHAM: Objected to for the reason
4 that it is not properly identified and not accepted
5 as authentic.

6 MR. TAVENNER: In reply I would state that
7 the witness has said that there may have been other
8 things in the original telegram not included in this
9 but that matters contained in this telegram were in
10 substance what he received.

11 ACTING PRESIDENT: By a majority, the objec-
12 tion is overruled. The document will be received in
13 evidence.

14 CLERK OF THE COURT: Prosecution document
15 3269 will receive exhibit No. 3514.

16 (Whereupon, the document above
17 referred to was marked prosecution ex-
18 hibit No. 3514 and received in evidence.)

19 MR. TAVENNER: I will read exhibit 3514:

20 "The following telegram is War Ministry
21 Telegram No. 235:

22 "1. Both the Army and Navy are in agreement
23 with the purport of the treaty plan which was brought
24 by Major General KASAHARA. The opinion to adopt this
25 concurred upon the following conditions:

1 "a. Add the following essentials as the
preamble. (Plan for preamble omitted).

2 "b. Change 'diplomatically' of Article 2 to
3 'economic.'

4 "c. Change the end of Article 3 from:
5 'there is an obligation to perform' to 'will enter
6 into a conference immediately.'

7 "d. The phrases, 'menace and attack,' of
8 Articles 2 and 3 will be designated as: 'unless
9 provoked.'

10 "e. It is our opinion that we would like to
11 prescribe clearly and in detail the methods of execu-
12 tion and limit of the sphere of the conditions of
13 military aid to be given in accordance with the
14 secret treaty to be attached to the main treaty.
15

16 "2. Since we desire to conclude this treaty
17 as promptly as possible, we wish Germany would take
18 steps to submit this plan formally soon."

19 Q I now hand you IPS document 3271 in the
20 Japanese text and I will ask you if you did not re-
21 ceive that telegram on the same day that you received
22 the telegram appearing as exhibit 3514.

23 A I shall reply. I think I can say that the
24 contents of this document are generally the same as
25 the telegram which I received at that time, but I

1 "a. Add the following essentials as the
preamble. (Plan for preamble omitted).

2 "b. Change 'diplomatically' of Article 2 to
3 'economic.'

4 "c. Change the end of Article 3 from:
5 'there is an obligation to perform' to 'will enter
6 into a conference immediately.'

7 "d. The phrases, 'menace and attack,' of
8 Articles 2 and 3 will be designated as: 'unless
9 provoked.'

10 "e. It is our opinion that we would like to
11 prescribe clearly and in detail the methods of execu-
12 tion and limit of the sphere of the conditions of
13 military aid to be given in accordance with the
14 secret treaty to be attached to the main treaty.

15 "2. Since we desire to conclude this treaty
16 as promptly as possible, we wish Germany would take
17 steps to submit this plan formally soon."

18 Q I now hand you IPS document 3271 in the
19 Japanese text and I will ask you if you did not re-
20 ceive that telegram on the same day that you received
21 the telegram appearing as exhibit 3514.

22 A I shall reply. I think I can say that the
23 contents of this document are generally the same as
24 the telegram which I received at that time, but I
25

1 cannot say for sure whether there was anything else
2 added to this telegram or whether parts of this
3 telegram are exactly as represented here.

4 MR. TAVENNER: Just a moment. I offer in
5 evidence IPS document 3271.

6 MR. CUNNINGHAM: Just a minute, please.
7 I should like to object for the same reasons that I
8 objected to the other document and for the further
9 reason that there is no certification here that this
10 came from any authentic source and the witness not
11 having authenticated it. Therefore, under our rules
12 heretofore applied, it is objectionable as evidence
13 at this time.

14 ACTING PRESIDENT: The whole purport of the
15 document was admitted by the witness. The same rul-
16 ing as on the previous document. The objection is
17 overruled and the document admitted in evidence.

18 CLERK OF THE COURT: Prosecution document
19 3271 will receive exhibit 3515.

20 (Whereupon, the document above
21 referred to was marked prosecution exhibit
22 No. 3515 and received in evidence.)

23 MR. TAVENNER: I will read exhibit 3515:
24 "Explanation concerning War Ministry tele-
25 gram No. 236:

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1 "1. 'The Preamble Draft' is that this
2 treaty is an extension of the existing Anti-Comintern
3 Pact, and is a plan which makes clear the intent that
4 the Soviet Union is the chief target. Care was taken
5 so as not to give the impression from the wording that
6 England and the United States are the greatest ene-
7 mies.

8 "2. The Text Plan, Obligation of military
9 Aid in Article 3, is not instantaneous or uncondition-
10 al. In order to nullify the danger of becoming in-
11 volved before we enter with military aid is the
12 principle.

13 "3. In order to allow the purport of this
14 treaty to take on a defensive character, 'menace and
15 attack' will be limited to 'provocation.'

16 "4. Furthermore, the text of the plan is at
17 present under zealous consideration."

18 Q General OSHIMA, in compliance with your in-
19 structions you communicated the Japanese revisions at
20 once to Ribbentrop, didn't you?

21 A Yes.

22 Q Now, you have told us about your trip to
23 England and Belgium, what was the date of your trip?

24 A I do not recall the exact date but it was
25 shortly after becoming ambassador. I think it was

1 somewhere around February 1939.

2 Q During what part of February?

3 A I recall that it was before the arrival
4 of the ITO Mission, but I do not recall the exact
5 date.

6 Q Were you officially received by the govern-
7 ments of these countries you visited?

8 A I do not know what you mean by "officially
9 received," but I entered England with an official
10 visa in my capacity as ambassador.

11 Q But you had no official mission to the
12 English Government, did you, which required you to
13 be officially received by the appropriate English
14 officer?

15 A Such a thing, it is ordinary that such a
16 thing does not exist according to diplomatic precedent --
17 does not take place.

18 Q That is not what I asked you. Will you please
19 answer my question: Were you so received or not? You
20 can answer yes or no to that simple question.
21

22 A No, I was not so received.

23 Q Was your presence in these countries made
24 known publicly or kept secret?

25 A As I said before, I went in openly with a
visa issued to me by English authorities.

1 Q Now, will you answer my question?

2 A May I have the question repeated?

3 THE MONITOR: The Japanese court reporters
4 have changed so we will have to do an interpretation
5 again.

6 MR. TAVENNER: I will re-ask the question,
7 it will be simpler.

8 Q Was your presence in England and Belgium
9 made public or was it kept secret?

10 A It was open.

11 Q Was a conference of Japanese ambassadors and
12 ministers to European countries held in Berlin in
13 1939?

14 A No.

15 Q What ambassadors other than SHIATORI visited
16 Berlin during 1939? Of course, I am referring to
17 Japanese ambassadors accredited to nations -- European
18 countries.

19 A Well, I can't recall all of them, but I shall
20 mention those which occur in my mind. Mr. KURIYAMA,
21 Minister to Sweden, came to Berlin--

22 Q Just a moment. When?

23 A I do not recall the time. Mr. AMAU, a minister
24 accredited to Switzerland, also came.

25 Q When?

1 A Well, with regard to this, too, I do not re-
2 member the date, but I think it was in 1939 after the
3 visit of the ITO Commission. And there was occasion
4 for Ambassador TOGO to come from Moscow. There was
5 a time when Mr. SHIRATORI came from Italy where he was
6 ambassador.

7 Q What was the occasion for TOGO coming from
8 Moscow?

9 A I do not recall any special occasion.

10 Q When did he come? Was it after the ITO
11 Commission was there?

12 A Yes, after.

13 Q How long after?

14 A Not so long after.

15 Q Well, what time in February did the ITO Com-
16 mission arrive?

17 A I do not remember the date but I think it
18 was late in February.

19 Q Would you say that TOGO arrived within a
20 week or two weeks after the arrival of the ITO Com-
21 mission?
22

23 THE COMMISSIONER: Would you repeat that, please?

24 Q Would you say that TOGO arrived within one
25 week or two weeks after the arrival of the ITO Com-
mission?

1 A I do not remember the exact date but it
2 was not long after and approximately within a period
3 of something like that.

4 Q Now, proceed with the others who were
5 present.

6 A Ambassador SAKO stationed in Poland also
7 came to Berlin. Those who generally remain in my
8 memory at this date are those which I have just
9 named.

10 Q Did SATO arrive also soon after the ITO Com-
11 mission?

12 A I said SAKO, S-a-k-o. Not soon after, but
13 anyway after the coming of the ITO Commission.

14 Q Were all of these ambassadors present at the
15 same time in Berlin?

16 A They all came at different times. I should
17 like to add that it has been sort of a custom of
18 officials of the Japanese Foreign Office to take
19 various opportunities to visit other posts for the
20 purpose of liaison and exchange of information from
21 time to time.
22
23
24
25

1 Q Did TOGO come at his own suggestion or at
2 yours?

3 A No, he came at his own initiative.

4 Q Was SHIRATORI present while TOGO was there?

5 A Yes-- will you wait just a moment -- so I think
6 but I cannot say definitely.

7 Q Well, let me see if I can refresh your recollection.
8 As a matter of fact, did you not hold a meeting
9 or a conference at which at least TOGO and SHIRATORI
10 were present and that you and SHIRATORI expressed the
11 view or your opinions to the effect that Germany and
12 Italy were rising powers in Europe and to align with
13 them would be allowing Japan to improve her position
14 in East Asia? Do you not remember that and is that not
15 true?

16 A With regard to this meeting, it was held --
17 it was possible that a meeting of these three should be
18 held because SHIRATORI attended the conferences when
19 the ITO commission came to Berlin and TOGO came just
20 about that time and so your reference refreshes my
21 recollection. Well, I do not now remember what we
22 talked about and I do not remember what SHIRATORI said
23 at the meeting, but inasmuch as I entertained such
24 ideas I believe it was as a matter of course that I
25 expressed them.

1 Q Now, what other ambassadors from European
2 countries were present at this meeting besides
3 SHIRATORI and TOGO?

4 A No one else.

5 Q Did you not learn that you and the army had
6 been severely criticized in early February, 1939, by
7 Foreign Minister ARITA for carrying on diplomatic
8 negotiations without the consent of the Foreign Minister?

9 A Not once was I cautioned as suggested by you,
10 and according to the Japanese system there could have
11 been no possibility of ARITA criticizing the Army. I
12 do not remember any occasion which I conducted negoti-
13 ations without the consent of the Foreign Ministry.

14 Q You say the Foreign Minister could not criticize
15 the Army. The reverse, however, wasn't true; the Army
16 was perfectly free to criticize the Foreign Ministry,
17 wasn't it, and did so freely?

18 A When you say "criticism" do you mean talk about
19 or make comments on?

20 Q Just strike the question. Did you not learn
21 that the Foreign Minister charged in February 1939 that
22 you sent a telegram to the general staff headquarters,
23 concerning the strengthening of the Anti-Comintern Pact,
24 the contents of which had not been known to him -- had
25 not been made known to him.

1 A Never heard of it and there was no such fact.

2 Q Either while you were military attache or while
3 you were ambassador?

4 A When I was military attache I sent no wires to
5 the Foreign Office. As I have stated in my affidavit,
6 I sent my messages only to the Army. After becoming
7 ambassador I sent no telegrams to the Army; I sent my
8 telegrams only to the Foreign Office.

9 Q Who was the deputy chief of the Army General
10 Staff in February 1939?

11 A Well, I have forgotten the deputy chief of the
12 Army General Staff, but I think it was probably HAKAJIMA,
13 Tetsuzo.

14 Q Did not the deputy chief of the Army General
15 Staff in the early part of the year 1939 warn you that
16 the supreme authority of diplomacy is vested in the
17 Emperor?

18 A The deputy chief of the Army General Staff had
19 no authority to warn me as an ambassador nor was there
20 ever such a fact.

21 Q Did he communicate with you either directly or
22 indirectly about your conduct as ambassador?

23 A As I have stated in my affidavit, there were
24 no contacts either directly or indirectly.

25 MR. TAVENNER: I think we might as well clear

1 this up at this point, General OSHIMA. I have been very
2 patient for a long time about your references to what
3 is in your affidavit. Now what is in your affidavit is
4 known to me and it is plainly written for the Court to
5 see and I wish you would confine your answers to my
6 specific questions.

7 MR. CUNNINGHAM: I would ask that the Court
8 admonish counsel to remain strictly to question and
9 answer form of interrogation and not lecturing the witness.

10 ACTING PRESIDENT: The witness is very evasive
11 and probably the Court should have admonished him before
12 counsel did. Objection overruled.

13 THE WITNESS: I was stating that there was no
14 such fact and so I shall withdraw my statement that it
15 was so stated in my affidavit.

16 Q Did SHIRATORI accompany the ITO Commission from
17 Italy to Berlin and there have various conferences with
18 you regarding the proposed pact?

19 A He arrived later than the ITO Commission. A
20 conference was held.

21 Q Many conferences were held between you and
22 SHIRATORI, weren't there, while the ITO Commission was
23 in Berlin?

24 A After the arrival of the ITO Commission, SHIRATORI
25 and I listened to the explanations of that commission for
two or three days.

1 Q Did you and SHIRATORI have frequent con-
2 ferences between the two of you while the ITO Com-
3 mission was there?

4 A No, there was no such occasion.

5 Q When the ITO Commission delivered you a draft
6 of the compromise proposal of the Japanese Govern-
7 ment, did you after studying it make the statement
8 to ITO that you were unable to convey to the German
9 Government such a proposal, which you deemed was far
10 short of what you expected it to be?

11 A No, I did not say so to him.

12 Q Did Mr. ITO insist on your delivery of
13 the proposal to the German Government and upon re-
14 ceiving the German Government's opinion instead of
15 your opinion?

16 A No, he said nothing of the kind.

17 MR. TAVENNER: With regard to the mission of
18 the ITO Commission, if the Tribunal please, reference
19 is made to prosecution exhibit 497, pages 6061 to 6071
20 of the transcript, which is an excerpt from OSHIMA's
21 interrogation.
22

23 Q General OSHIMA, if as you state the ITO
24 Commission arrived in February and you did not re-
25 ceive a counterproposal from the Japanese Government
until the latter part of March, there was an interval

1 of more than a month. In this month's interval of
2 time did you officially deliver to Ribbentrop the
3 draft proposal presented you by the ITO Commission?

4 A It was only natural that I should not have
5 officially delivered the proposal inasmuch as --

6 Q Just a moment.

7 A (Continuing) -- inasmuch as I had presented
8 opinions to the home government -- I was in the midst
9 of addressing opinions to the home government.

10 Q I did not ask you what was natural. I asked
11 you what you did. The question can certainly be answered
12 yes or no. Please answer it.

13 A I did not.

14 Q In this interval of time did you not receive
15 telegrams from the Foreign Minister instructing you
16 to do as recommended by the Japanese Government?

17 A No, not so.

18 Q On page 21 of your affidavit you state a new
19 instruction was received at the end of March revising
20 the instructions brought by the ITO Commission, and
21 you proceed to describe the alleged revision. As a
22 matter of fact, General OSHIMA, is it not true that
23 the revision you describe here, that is at page 21, was
24 a revision that was attempted in June, 1939, after the
25 Five Ministers' Conference of June 5?

A It was absolutely not so.

1 Q Is it not a fact that this reply received by
2 you in the latter part of March, 1939, to your objections
3 to the ITO Commission draft specified first that the
4 matter of Russia remain the same?

5 A I can't quite catch the question.

6 Q Do you wish the question repeated, or do you
7 wish me to explain the question further?

8 A No. I should like to clarify the point whether
9 you mean to ask whether the attitude toward Russia had
10 been changed before or after, or whether the objectives
11 had changed.

12 Q To make it perfectly plain, I will re-ask the
13 question in this form: Did not the reply that you re-
14 ceived in March state that matters should remain the
15 same as far as Russia was concerned? That is, the same
16 as in the original ITO Commission report?

17 A Yes, exactly.

18 Q And, second, did it not state that in regard
19 to other countries, Japan would go further than simply
20 stating that the pact would be aimed at nations embracing
21 communism, in that Japan would give aid against these
22 other countries but that aid was to consist of military
23 advice? Is that not true?

24 A No, I couldn't quite catch the question as I
25 heard it.

1 MR. TAVENNER: Will you repeat the question
2 to him?

3 (Whereupon, the last question was read
4 by the official court reporter.)

5 A No, that was not so.

6 Q And by military advice, was it not meant
7 trading of intelligence, the temporary leasing of bases,
8 the export of fuel oil and other commodities, and, in
9 general, all aid outside of actual participation?

10 A No.

11 MR. TAVENNER: If it please the Tribunal, I
12 desire to refer the Tribunal to the interrogation of
13 OSHIMA, exhibit 497, pages 6,065 to 6,066 of the
14 transcript.

15 ACTING PRESIDENT: We will recess for fifteen
16 minutes.

17 (Whereupon, at 1045, a recess was
18 taken until 1100, after which the proceed-
19 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Tavenner.

4 BY MR. TAVENNER (Continued):

5 Q General OSHIMA, did you confer in Rome with
6 SHIRATORI and an Italian representative on or about
7 April 2nd, 1939 regarding the Pact?

8 A I do not remember the exact date, but about
9 that time there was occasion for me to go to Rome to
10 engage in a discussion.

11 Q Was another meeting held on the following
12 day with Ribbentrop who had been unable to reach the
13 conference on the day before?

14 A The Rome discussions were participated in
15 only by SHIRATORI and me. Italians and Germans did
16 not participate. After I returned I met Ribbentrop.

17 Q And was that on the next day?

18 A I do not remember exactly, but one or two
19 days thereafter.

20 Q Did not you and SHIRATORI have with you on
21 the occasion of your conference in Rome the directive
22 of January 23rd, which was the ITO Commission Directive,
23 and the final directive of March 25th which was the
24 Japanese compromise proposal?

25 A Yes.

1 Q Do you not recall that on the occasion of
2 the first conference mentioned, either you or
3 SHIRATORI informed Count Ciano of the nature of the
4 directives which you and SHIRATORI had received from
5 your Government?

6 A I have never met or talked with Ciano.

7 Q Who was the representative present representing
8 the Italian Government?

9 A As I said before, it was not a conference.
10 I merely called on SHIRATORI, and no Italians were
11 present.

12 Q While you were in Rome did SHIRATORI confer
13 with Count Ciano or any other Italian representative?

14 A No, he did not.

15 Q Did you later learn of the result of his
16 conference with Count Ciano about the two directives
17 which you had in your possession?

18 A I heard that he had transmitted the directives,
19 but nothing else.

20 Q Didn't you inquire as to what Count Ciano
21 replied when he received those directives?

22 A I did not.

23 Q Well, if this was a matter important enough
24 to occasion your trip from Berlin to Rome, wasn't it
25 important enough to inquire as to the result of your

conference as far as Italy was concerned?

A The directives were transmitted after I had returned to Berlin.

3 Q I still ask you; did you make any inquiry as
4 to what the result of the conference between SHIRATORI
5 and Count Ciano was? Or did you learn of the result?
6

7 A I received notice that the directives had
8 been transmitted.

9 Q That is not a complete answer to my question.
10 Will you please answer my question directly.

11 A All I received was notification from SHIRATORI
12 that the directives had been transmitted. Other than
13 that, I received no notification. That is to say, there
14 was no need of any further notification unless there
15 was something -- some changes. Otherwise, only the
16 notification that the directives had been transmitted
17 was sufficient.

18 Q I will ask you this question again: Did you
19 inquire as to what occurred between SHIRATORI and
20 Count Ciano or did you afterwards learn what occurred?
21 You can answer that question yes or no.

22 A I did not hear -- learn.

23 Q Now, at your conference on the following day
24 with Ribbentrop, did Ribbentrop make this statement to
25 you that "the proposed pact is a weak pact and that was

1 a very disturbing fact"?

2 A Ribbentrop expressed his opinions, but not
3 that.

4 Q Did Ribbentrop ask you this question: "Is
5 Japan to participate in the war?"? To which you
6 replied, "Japan will probably participate."

7 A I had replied to him but not -- that was not
8 the reply I made.

9 Q That was the question asked by him, but your
10 reply was different; is that what I understand?

11 A Yes, that's what I mean.
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1 Q What was your reply?

2 A The instructions which I received from
3 Japan was that, although armed resistance --

4 THE INTERPRETER: Strike that.

5 A (Continuing) -- armed assistance would be
6 given, but it would not be effective. The instruc-
7 tion was that I was to state that -- to convey that.
8 This is vis-a-vis Third Powers outside of Russia.
9 Thereupon, Ribbentrop asked me the question, "Is
10 Japan going to participate in principle?" To that
11 question, I replied as follows: "Inasmuch as Japan
12 is speaking of armed assistance, it is recognized
13 that Japan would participate in principle.

14 "However, inasmuch as the particulars would
15 be incorporated in the secret protocol as to what
16 actually -- what Japan would do in specific cases
17 when such a case as war actually arose, the fact
18 that Japan recognizes the point in principle may be
19 understood." And, therefore, it was my understanding
20 that Japan recognized participation in principle.

21 Q Now, did you learn that early in April,
22 1939, you were severely criticized by the Emperor
23 for usurping the Emperor's prerogative of diplomacy
24 in expressing an intention of participating in war?

25 A I never heard of it, and there was no

1 possibility or any occasion for such a thing arising.

2 Q Did you not also learn that the Foreign
3 Minister recommended to the Emperor and also to the
4 Five Ministers Conference that the statements made
5 by you and SHIRATORI should be rescinded as actions
6 overstepping your limits as Ambassadors?

7 A Never heard of it, and no instructions or
8 anything -- any message was received as to rescind-
9 ing anything.

10 Q Did you confer with SHIRATORI again on
11 Hitler's birthday, April 20, 1939, in Berlin?

12 A Yes, I met him. SHIRATORI came to Berlin,
13 having been invited.

14 Q Following this meeting, you and SHIRATORI
15 requested the Japanese Government to recall you
16 from Germany and Italy, respectively, and the matter
17 of your recall was considered at the Five Ministers
18 Conference held on the 25th of April, 1939, is that
19 not so?

20 A There was no such case. There was no time
21 when both of us tendered our resignations, and I have
22 never heard that there was such a discussion in Japan.

23 Q Well, shortly following the Five Ministers
24 Conference of April 25, 1939, a further compromise
25 proposal in the form of the HIRANUMA declaration of

1 May 4 was delivered to the German and Italian pleni-
2 potentiaries in Tokyo, is that not true?

3 A That is a fact, but it cannot be called a
4 compromise proposal.

5 Q Within several days after the delivery of
6 the HIRANUMA declaration, did not Ribbentrop call
7 you on the telephone from Munich on his way to meet
8 Count Ciano at Como and ask you this question:
9 "When a contracting nation goes to war against
10 another, and even if there is no military aid from
11 Japan, would it be permissible to recognize Japan
12 as being in a state of war?" To which you replied
13 in the affirmative.

14 A Well, I do not recall whether such a ques-
15 tion was asked me by Ribbentrop, but granted that I
16 did reply that inasmuch as Japan had already recog-
17 nized her participation in principle -- recognized
18 in principle her obligation to participate, there
19 would be no occasion or possibility for me to go
20 beyond that -- go outside of that scope in making my
21 reply to him.

22 Q Did Ribbentrop arrange for a joint confer-
23 ence with you and SHIRATORI in Berlin for the 16th
24 of June, 1939?

25 A Will you repeat the date again, please?

1 Q the 16th of June, 1939, or about that date.

2 A At about that time, SHIRATORI came to Ber-
3 lin, and he and I were invited to luncheon by
4 Ribbentrop, and so probably you are referring to
5 that meeting. I do not, however, recall the exact
6 date.

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1 Q Now, at this conference did not SHIRATORI
2 say that the obstinacy of the Japanese Government on
3 the question of exchange of notes as regards Japan's
4 limited military capacity forced him to the conclusion
5 that the Japanese Government was still making mental
6 reservations with regard to the military alliance?

7 A May I have the interpreter repeat the question?
8 I couldn't quite get it all.

9 (Whereupon, the Japanese court
10 reporter read.)

11 I have no recollection.

12 Q Did you hold a conference with Ambassador
13 SHIRATORI in the latter part of July or the first part
14 of August 1939 at Villa Esta, Lake Como?

15 A Yes.

16 Q Before the holding of this meeting did you and
17 SHIRATORI issue a joint communique publicizing the
18 fact that such a conference was to be held?

19 A No joint communique was issued, but I do have
20 a faint recollection that newspaper men called on us.

21 Q And you publicized the fact of that meeting
22 through the press, did you not?

23 A Not speaking English, I did not meet the press.
24 However, from what I heard from Mr. SHIRATORI is that
25 he had merely met the press. There was nothing in the

1 nature of a communique --

2 Q Is it not a fact that the Japanese Government
3 neither suggested nor authorized the holding of such a
4 conference or the issuance of any public statement re-
5 garding it?

6 A -- and so there was no communique. I was just
7 trying to tell you that we merely -- he merely talked
8 with the press because they paid a visit.

9 Q My question is whether or not there was any
10 authority from the Japanese Government?

11 A No, there was no authorization or suggestion.

12 Q Did not War Minister ITAGAKI threaten to resign
13 in the early part of August 1939 because of his inability
14 to successfully advance a very strong military alliance
15 with Germany and Italy which he and you and SHIRATORI
16 had been working for?

17 A No, I know nothing of that.

18 Q Let me refresh your recollection. I hand you
19 prosecution exhibit 2198 and call your attention to a
20 telegram of 11 August 1939 from Ambassador Ott to
21 Ribbentrop, which has not been read in evidence. I
22 will ask you to follow the reading of it to the point
23 where I desire to ask you several questions.

24 (Reading) "Chief Central Section of War
25 Ministry, General MACHIJIRI, who on afternoon 10 August

1 had requested that he be received jointly by me and
2 Italian Ambassador, transmitted to us following com-
3 munications of War Minister:

4 "Army had resumed bitter battle for alliance
5 at Five-Minister conference 8 August but had made no
6 progress beyond the Japanese proposal of 5 June. Army
7 urgently striving for conclusion in order to:

8 "1. Reach an early successful end of the China
9 conflict, for which it/Army/ is responsible to nation,

10 "2. Conform to wishes of broad popular masses
11 and thereby alleviate present tension,

12 "3. Prevent a dangerous reaction in direction
13 of an economically tempting settlement with England.

14 "These reasons are so compelling that War
15 Minister is resolved as a last resort to risk his re-
16 signation, which would almost certainly entail resigna-
17 tion OSHIIA, SHIRATORI. This action might of course
18 gradually improve the Japanese basis for alliance, but,
19 would produce violent setback at first. Nevertheless,
20 resignation was only possible decision. Decision due to
21 be reached 15 August."

22
23 Does not the reading of this exhibit refresh
24 your recollection regarding the threat of ITAGAKI to
25 resign, and do you not now recall it as a fact?

A I have never heard of this.

1 Q Were you in communication with the War Ministry,
2 either directly or indirectly, or it with you, in August
3 1939, regarding either the War Minister's threat to re-
4 sign or the measures he was advocating before the Five
5 Minister Conference?

6 Let me continue to read from the same telegram:

7 "Since Cabinet confirmed renewed proposal of
8 5 June, War Minister deems early conclusion attainable
9 with following mutual concessions:

10 "Berlin and Rome declare to Japanese Ambassador
11 Japanese proposal of 5 June acceptable with the provisos:

12 "1. That they provide that no mental reserva-
13 tion is behind the wording;

14 "2. That verbal form of a Japanese supplement-
15 ary statement be found. War Minister then expects to
16 put through:

17 "Re 1: express Japanese confirmation of this
18 interpretation,

19 "Re 2: verbal statement, which was to be set
20 forth in the protocol to the treaty would be prominent-
21 ly mentioned. General HACHIJIRI almost entreatingly
22 requested concession before 15 August. War Minister
23 will communicate fact of his demarche with us to C.
24 and SHIRATORI, bypassing Foreign Ministry."
25

Does this refresh your recollection regarding

1 the views of the War Minister and his communication
2 with you, and are not these matters true?

3 A I have never heard of this.

4 Q With further reference to the views of War
5 Minister ITAGAKI, I direct your attention to the tele-
6 gram of 18 August 1939 from Ambassador Ott for the
7 German State Secretary, being the second telegram in
8 exhibit 2198, which likewise was not read in evidence.
9 I will ask you to follow the reading of the first and a
10 part of the second paragraphs.

11 A Are you referring to this telegram?
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1 Q Yes, the second telegram therein, dated
2 August 18, 1939:

3 "Domestic political following in the alliance
4 question continues undiminished. Press reports of
5 supposed compromise possibilities between Foreign and
6 War Ministers inexact. In last Five-Minister confer-
7 ence Foreign Minister was assigned task of again
8 clearly fixing text of Japanese alliance proposal
9 of 5 June without any essential change. This draft
10 is to be distributed among the participating ministers
11 and in case of acceptance at next Five-Minister con-
12 ference transmitted to ambassadors Berlin, Rome for
13 literal, written delivery to governments.

14 "War Minister rejected project of Foreign
15 Minister as unacceptible and continues to insist on
16 going beyond the proposals of 5 June. Since he was
17 unable to break through the unanimous front of the
18 other ministers, he deems his resignation unavoidable,
19 according to reliable information from the War Ministry.
20 He is strengthened by the pressure of junior officers,
21 who are demanding unconditional alliance."

22 Does that not refresh your recollection of the
23 views of the War Minister ITAGAKI and are they not now
24 recognized by you as being true and correct?

25 A I have not even heard of this.

Q ~~Was Captain ENDO your Naval Attache in Berlin~~

1 in July, 1939?

2 A Yes, he was.

3 Q Do you recall, and is it not a fact, that some
4 time in July Captain ENDO made an explanation of the
5 position of the Japanese Navy in regard to the strength-
6 ening of the Anti-Comintern Pact to the Chief Secretary
7 of the German Navy Ministry, wherein he stated that if
8 war should break out between Germany-Italy and England-
9 France it would be fine if Japan maintained a friendly
10 neutrality, and that upon learning of this from
11 Captain ENDO you became very angry and inquired of
12 Stahmer if Ribbentrop knew that?

13 A No, that is not so.

14 Q What office in Germany was held by Wiewel?

15 A He was Director of the Commerce Trade Bureau.

16 Q Did you have a conference with him in Berlin
17 on 21 December 1938 in which he informed you that
18 Ribbentrop insisted that preferred treatment be given
19 Germany as compared with third powers in China, and
20 that this should be stipulated in writing in the
21 Pro-Memorial regarding German-Japanese cooperation in
22 China?

23 A I have no recollection.

24 Q Let me see if I can refresh your recollection.
25 Did not Wiewel stress in that conference the fact that
Germany was entitled to a preferential treatment, not

1 only politically, but also economically and morally,
2 because of her aid given to China, such as recall of
3 military advisor, stoppage of war materials and losses
4 resulting therefrom?

5 THE MONITOR: Did you mean China, Mr. Tavenner,
6 or Japan?

7 MR. TAVENNER: China -- oh, just a moment --
8 "aid given to Japan."

9 A I have no recollection whether he said anything
10 like that. That is because economic matters were en-
11 tirely in the hands of economic experts and even if
12 such matters were brought to the attention of the
13 Embassy, that would be only by these experts in my
14 staff. At any rate, no recollection -- I have only
15 the faintest recollection with regard to economic
16 subjects and I do not recall this at all.

17 Q Well do you not recall that you declared that
18 you had always urged preferential treatment and that
19 the Japanese Army was in favor of it?

20 A I have no recollection.

21 Q Do you not also recall that in that conference
22 you told Wihl that you had sent an energetic wire
23 report to Tokyo on 9 December to the effect that the
24 preferential treatment should be granted in writing?

25 A I have no recollection, and by that I mean that
~~any negotiations with Wihl was conducted in principle~~

by the economic experts in my staff in the Embassy.

1 However, it may be possible that the official in
2 charge of economic matters in my Embassy may have
3 talked of such matters to Wiehl, but I have no
4 connection with --

5 THE MONITOR: Correction, please. Strike
6 that last. However, it may be possible that the
7 official in charge of economic affairs in my Embassy
8 may have talked with Wiehl about something that I
9 told this officer in charge, but I have no recollec-
10 tion of my having talked with Wiehl. That was because
11 I had almost no knowledge of economics at all.

12 Q Well, regardless of your present recollection
13 of having made that statement to Wiehl, is it not true
14 that you sent such a wire to Tokyo on 9 December?

15 A Well, that may have been sent, but such
16 matters were entirely in the hands of the Economic
17 Department in the Embassy and so I have no recollection.

18 Q Did you not further inform Wiehl that you had
19 sent letters to the same effect to leading personalities
20 of the Japanese Army through a Japanese general who
21 recently visited Berlin?

22 A I may have.

23 Q While a representative of the Japanese Govern-
24 ment in Germany, is it not true that you were chief of
25 all Japanese diplomatic representatives and intelligence

1 services in Europe?

2 A No, all ambassadors and ministers were
3 independent of each other.

4 ACTING PRESIDENT: We will adjourn until 1:30.

5 (Thereupon, at 1200, a recess was taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Mr. Tavenner.

- - -

H I R O S H I O S H I M A, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

CROSS-EXAMINATION

BY MR. TAVENNER (Continued):

Q General OSHIMA, in your affidavit you have
characterized the conclusion of the German-Russian
Nonaggression Pact as an act of extreme bad faith on
the part of Germany. Did you later change your views
on that subject?

A No, I have not.

Q Did you not state in your interrogation that
one of your reasons for resigning as ambassador was
that you mistrusted the German leaders; is that correct?

A What I stated was they hurt my feelings.

Q Did you change your views in that regard?

A I did not. In connection with this interroga-
tion I recall that when the passage was read back to

1 me in which the word "mistrust" was used, I corrected
2 that passage saying that they hurt my feelings.

3 Q Did you consider that the conclusion of the
4 German-Russian Nonaggression Pact created an extremely
5 critical situation between the two governments of
6 Germany and Japan?

7 A No, I did not think so; not in that manner.

8 Q As a result of the conclusion of that pact
9 there was a cooling off of the relationship between
10 Japan and Germany, was there not?

11 A Yes, they cooled off in their sentiments.

12 Q What did you do about it, if anything?

13 A The Japanese side only filed a protest
14 against Germany for concluding this nonaggression
15 pact with Russia.

16 Q Well, did you do anything else about it
17 yourself other than that?

18 A I myself lodged a protest twice with the
19 receipt of the notification.

20 Q I mean in addition to what you did in that
21 connection, was there anything else?

22 A No, there was nothing.

23 MR. TAVENNER: Will the marshal of the court
24 please hand to the witness prosecution document 3268?

25 (Whereupon, a document was handed to

1 the witness.)

2 Q This is the January 1940 issue of the
3 magazine "Bungei Shunju" and I ask you if at page 64
4 you find printed therein an article entitled, "The
5 Idea of German Diplomacy" written by you?

6 A Yes, there is.

7 MR. TAVENNER: I offer for identification only
8 prosecution document No. 3268 and I desire to tender
9 in evidence prosecution document No. 3268-A, an excerpt
10 therefrom consisting of the article mentioned.

11 ACTING PRESIDENT: The first document will
12 be received for identification only; the second will
13 be received in evidence.

14 CLERK OF THE COURT: "The Bungei Shunju" for
15 January 1940 will receive exhibit No. 3516 for iden-
16 tification only; the excerpt therefrom, being prosecu-
17 tion document 3268-A, will receive exhibit No. 3516-A.

18 (Whereupon, IPS document 3268 was
19 marked prosecution exhibit No. 3516 for
20 identification only; the excerpt therefrom,
21 being IPS document 3268-A, was marked
22 prosecution exhibit No. 3516-A and received
23 in evidence.)
24

25 MR. TAVENNER: I will read in evidence
exhibit 3516-A, the "Bungei Shunju," January 1940:

1 "The Idea of German Diplomacy

2 "OSHIMA Hiroshi

3 "German diplomacy is, as a matter of fact,
4 Fuehrer Hitler's diplomacy. Hitler mentions honor
5 (Ehre), equality (Gleichheit), and freedom (Freiheit)
6 as the three principles of diplomacy. In other words,
7 he means to bravely endeavor to improve such things
8 as impair the honor of Germany, hinder her equality
9 and take her freedom away.

10 "For instance, the Versailles Treaty is
11 against these three principles. Therefore Germany
12 tried to break herself off from this regime, and the
13 declaration of re-armaments, the denunciation of the
14 Locarno Treaty, the occupation of Rhineland and other
15 daring acts with which Germany is now throwing the
16 world into utter amazement -- they have all come from
17 these three principles. Any obstacle to the honor of
18 Germany, to the equality of Germany, and to the freedom
19 of Germany must be swept as soon as possible.
20

21 "Practical affairs of course do not always
22 conform with principles. Each country has her own
23 fine diplomatic principles. Weak countries are too
24 powerless to carry out their ideals, while strong ones,
25 depending upon their power, entrench themselves behind
the shield of their principles. Germany, however,

1 may be said to be one of those countries which are
2 steadily carrying out their ideals and leading
3 principles. Lookers-on may think that their state
4 ideals are carried out too hastily and somewhat over-
5 bearingly, but at least Hitler himself is convinced
6 that he is carrying out sound diplomatic policies at
7 opportune moments.

8 "This way of thinking is revealed in various
9 diplomatic policies. To cite an example, it is clearly
10 shown in Hitler's diplomatic document exchanged with
11 the British Government in the well-known 'blank docu-
12 ment' in the recent Polish trouble. That is to say,
13 Great Britain desired the withdrawal of the German
14 forces when they advanced into Poland, suggested
15 that Germany and Poland should negotiate afresh on a
16 blank slate and proposed that the British Government
17 should also join in these negotiations at such time.
18 Hitler, however, flatly refused this request.

19 "As answered the German forces might give ear
20 to such requests of Great Britain and France when they
21 had accomplished the aim of their advances, namely after
22 they had secured victory, but while the objective of
23 advances with good reasons is not achieved, for the
24 sake of German 'honor,' it is impossible to withdraw
25 her troops, even for the convenience of diplomatic

1 negotiations. This shows us how important they think
2 of honor.

3 "In the complicated international relations
4 of today, however, mere speech cannot secure the
5 safety of a country. It can be understood that she
6 /Germany/ has endeavored to maintain a strong army
7 in a short time as a support to back her and to carry
8 out her own diplomacy of the three principles under
9 the support of this real power. She has often
10 achieved bloodless victory because to accomplish her
11 purposes, she attended to affairs being prepared for
12 war in the worst case. The difficult work of the
13 present reconstruction of Germany has been accomplished
14 entirely because of the sagacity of the statesmen to
15 perceive the development of things, decision at the
16 right moment, a powerful army, perfect command with
17 the whole nation under it and /the nation's/ trust
18 /in the command/. It deserves our admiration that
19 Germany has made herself what she is under the complicated
20 situation of Europe.

21 "Can it be considered that the bloodless
22 diplomacy, however, which annexed Austria, and dealt
23 with Czecho /-Slovakia/ twice, failed in its diplomacy.
24 by giving rise to the second Great World War by finally
25 making a foe of England and France by annihilating

1 Poland on the pretext of the Danzig problem?

2 "Now, diplomacy presupposes the other party.

3 It is by nature adaptable to any changes to suit the
4 occasion, and it is not necessarily right to think
5 that German diplomacy made a failure or a miscalcula-
6 tion in coming to the present War. Germany was
7 always prepared for war and carried out all policies
8 on that basis. That is to say, she was determined to
9 resort to arms at any moment according to the other
10 party's attitude towards her when she carried out her
11 own positive policies. In this way the victory of
12 bloodless diplomacy came to be talked about, and her
13 firm resolution was the same this time as before.

14 "There is nothing more necessary at present
15 than such close connection of diplomacy and military
16 force.

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1 "The conclusion of the Non-Aggression Treaty
2 between Germany and the Soviet Union gives us an im-
3 pression that both countries were, evilly-speaking,
4 too crafty. I think this infuriated not a few of the
5 people. I think we cannot, however, rightly oppose
6 (denounce) this as the last measure Germany resorted
7 to in her critical situation when by this means she
8 would either be forced to make operations on two
9 fronts or by only one front, or be able to avoid war.
10 Is not the Soviet Union at present desiring merely to
11 advance to the Baltic Sea on one hand and to reach a
12 rapprochement with Japan in the Far East on the other?
13 Diplomacy of course admits of no conjectures, but I
14 think it may be possible at this juncture to make the
15 Soviet Union wash her hands of China.

16 "Fuehrer Hitler carries on German diplomacy
17 himself. Ribbentrop is a good assistant to him. Hit-
18 ler himself was a superior private in the World War (I)
19 and has no experience whatsoever as a diplomat. He
20 has become from his particular character a first-
21 class personage and diplomat in the world.

22 "He takes to histories and philosophical works
23 while busy in state affairs, meditates hard and is
24 devising all policies from the principles which have
25 crystallized in his head. Ribbentrop is quite one

1 with Hitler and has a good understanding of Hitler's
2 diplomatic belief, and it is not too much to say that
3 German diplomacy lies in the hands of these two. Such
4 being the case, quick daring diplomacy could be car-
5 ried out which astonished thw world. Ribbentrop has
6 an acute intellect and a quick perception -- a thing
7 which Germans seldom have. He also has a very strong
8 will and is a type of man who never fails to go
9 through what he has determined to do. He is exactly
10 the right diplomatic assistant who has no latch in
11 the positive diplomacy that is the upshot of the pre-
12 sent 'Nazis' ideology.' Ribbentrop's trait is, to be
13 more exact, to spare no pains. Usually no policies
14 are carried out without some obstacles or other. He
15 is truly a modern international statesman who is ready,
16 in such cases, to fly to Rome or London and handles
17 the matter quickly. Being such a type of active
18 man, he does not stick to trifles or care about
19 minor details in negotiation or dispute, but tries to
20 grasp main points. In this sense, I could not but
21 recognize his quick perception in my various actual
22 negotiations.

23 "He is not a very early riser, as foreigners
24 go, but tenaciously sits at work vry late at night.
25 He is quite a different type of statesman from the

1 so-called petty officials.

2 "I had much intercourse with Goering and
3 other military men while I was a resident officer, and
4 I have been acquainted with Ribbentrop and other dip-
5 lomats and statesmen since I was an ambassador. These
6 men gave me an impression that the Nazi leaders were
7 all settled in resolution and that they were young.

8 "Since the Munchen disturbance in November,
9 1923, the present Nazis have been under the oppression
10 of communism and social democracy, have often lingered
11 on the verge of death, have exposed themselves to dan-
12 ger from morning till night -- they have busied them-
13 selves so much to make the defeated Germany what she
14 is today -- a fact which I think has had an effect
15 upon their character, has trained them and has made of
16 them statesmen who are sincerely anxious about the
17 future of their country and grapple with their nation-
18 al crisis.

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20 "As Germans usually do, Fuehrer Hitler strong-
21 ly trusts and respects Japan. It is true that he had
22 political interest, but he depends much upon the Jap-
23 anese nationality and the character of the Japanese.

24 "Hitler paid attention to German history and
25 the traditions of the foundation of their country, upon
which school education also laid stress. This is per-

1 haps because he knew that a man could not perform his
2 duty as a citizen of his country unless he respected
3 the history of his country. It was quite natural that
4 he respected our history of 2600 years.

5 "He also teaches, 'be always brave.' In his
6 speech in the Reichstag of September 1, he said, 'Let
7 Goering be commander when I am killed at the front;
8 let Hess succeed Goering when he dies; and choose
9 the bravest Nazi when Hess dies,' and went immediately
10 to the front and to the first line. The Japanese are
11 likewise very brave, a people who do not fear death.
12 Hitler was thus faithful to his belief and loved to
13 be bold and daring.

14 "It is quite natural that even the parties
15 concerned should be unable to foretell the saying,
16 'what will become of the European war?' The view is
17 prevalent that a modern war is a protracted national
18 total war. Germany is now of course well aware of
19 this. And yet she has entered into war, so we might
20 think that she is prepared for a protracted war and
21 at the same time has confidence in her operations to
22 win the war in a short time.

24 "Victory is, however, as is called, an un-
25 certain affair. Nobody can tell which side will win.

"It is dangerous to judge the present war by

1 the standards of past wars. What were operations on
2 two fronts before are now operations on one front,
3 and each country is trying to localise the war. We
4 have to constantly watch how the world is moving,
5 to make a good study of war and to ponder quietly
6 upon its results. Whether they are participants or
7 not, all Powers are affected by the war in question.
8 Our Government, at this juncture, must establish
9 national policies and to exert itself to carry them
10 out.

11 "Our policies towards the United States and
12 towards the Soviet Union must be grasped in a wide
13 sense as links of our world policy. A far-sighted
14 policy has to be formulated for future Japan so as
15 to win the consent of the people.

16 "The European War occurred after a lapse of
17 25 years. Everybody must take this opportunity to
18 lead Japan to greater prosperity in the world."

19 Q In January, 1940, the month after your re-
20 turn from a five and a half year sojourn in the land
21 of Hitler and the Nazi Party, you knew of the found-
22 ing of the Gestapo under Goering in 1933, didn't you?

23 A When it was founded I do not know, but I
24 knew of the existence of the Gestapo.

25 Q You knew that Hitler's *Mein Kampf*, teaching

1 the right of pure Germans to dominate all races, and
2 that force is necessary to solve international probl-
3 lems, had been used in the schools and colleges through-
4 out Germany and distributed to all government offic-
5 als, did you not?

6 A I knew that the book was widely read, but I
7 did not know that it was distributed according to such
8 a plan as just suggested.

9 Q You witnessed, in June, 1934, the murder
10 without warning of those who opposed the Hitlerian
11 doctrines in what was notoriously known as the "Blood
12 Bath," did you not?

13 A I knew of this incident, but I did not know
14 its cause.

15 Q And, incidentally, this blood bath had its
16 counterpart in Japan in the various assassinations
17 between 1931 and 1936 of those who opposed the policy
18 of the Japanese Army, isn't that true?

19 A Since I was not in Japan after 1934, I have
20 no knowledge upon which to base any views or opinions
21 with regard to these series of incidents.
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1 Q You also witnessed the establishment of the
2 notorious concentration camps in Germany and you were
3 familiar with the reign of terror that followed, isn't
4 that true?

5 MR. CUNNINGHAM: Your Honor, I wish to object
6 to this series of speeches. These are matters of which
7 every school boy knew and are not matters for the deter-
8 mination of this Tribunal.

9 ACTING PRESIDENT: Objection overruled.

10 A I knew of the concentration camps but I have
11 never seen them. And also I heard rumors of maltreat-
12 ment but I have never investigated the facts.

13 Q With all this knowledge and more on your part
14 you prepared this article relating to the so-called
15 Hitler diplomacy of honor, equality and freedom for the
16 purpose of aligning more closely the Japanese Government
17 and people with Hitlerite Germany, is that not true?

18 A No, there was no particularly deep meaning for
19 my writing the article. I wrote the article because
20 the Japanese people at large at that time were interested
21 in knowing about conditions in Germany and about German
22 leaders, and I wrote this article in order to introduce
23 the better side of Germany. In all things there are the
24 good aspects and the bad aspects and in this case I
25 introduced the good aspects to the people of Japan.

1 Q Now, in this public statement you asserted
2 in effect that Germany established a strong army in
3 order that Hitler's three principles of so-called
4 diplomacy of honor, equality and freedom would have
5 the support of real power and by it Germany had often
6 achieved bloodless victories. By bloodless victories
7 were you referring to such events as the Nazi Putsch
8 in Vienna in July 1934 when Dollfuss was assassinated,
9 the occupation of the Rhineland in March 1936 in viola-
10 tion of the Treaty of Versailles, the Austrian Anschluss
11 in March 1938 when Von Schussnigg was forced to resign
12 upon threat of German invasion, the incorporation of
13 Austria into the Reich in March 1938, and the occupation
14 of the Sudeten area of Czechoslovakia in October 1938?

15 A Yes, I was referring to these various incidents.

16 Q Then you consider that those incidents and, as
17 you state in this article, the annihilation of Poland
18 on the pretext of the Danzig problem were the better
19 parts of Germany which you wanted to recommend to the
20 Japanese people?

21 A It is my thinking that such matters as the
22 significance of an incident of this kind should await
23 the comments of future historians.

24 Q You, however, were not awaiting on future history
25 to comment. You were imparting your conception or your

1 ideas of Germany to both the Japanese Government and
2 the Japanese people through this article, weren't you?

3 A No, I wasn't urging this on the Japanese people.

4 Q No, but you were helping history along by
5 encouraging it and presenting it to the Japanese people,
6 weren't you?

7 A No, not so. I understood your question to be
8 whether this was good or bad -- this was a good aspect
9 or a bad aspect, and in reply to that question I said
10 that we must await the judgment of future historians.
11 What I wrote in the article was the actual state of
12 affairs. I was not encouraging it on the Japanese people.

13 Q Well, you were trying to warm up the relations
14 between Germany and Japan which you said a moment ago
15 had cooled because of the German-Russian pact, weren't
16 you?

17 A No, that is not so. I wrote the article because
18 there were many Japanese who desired to know about con-
19 ditions in Germany. I did not write the article on my
20 own volition, initiative.

21 Q Then who asked you to write it?

22 A The magazine publishing company itself was the
23 party that asked me.

24 Q And did the General Staff ask you?

25 A There has been no occasion when I was asked by

1 by the General Staff Office.

2 Q I am not talking about the General Staff Office.
3 I mean anyone connected with the General Staff.

4 A No one.

5 Q In this article you pictured to the Japanese
6 people that Germany as a nation always prepared for war
7 and determined to resort to arms at any moment in order
8 to carry out her own positive policies. Had not the
9 same thing been true in Japan since the Manchurian
10 Incident?

11 A I think that in any country -- correction:
12 I think that any country is armed for any eventuality.

13 Q When you added, "There is nothing more neces-
14 sary at present than such close connection of diplomacy
15 and military force," were you advocating a military
16 partnership between Japan and Germany in order that both
17 nations may better carry out their own positive policies?

18 A Now, this is not a document but an article
19 written at the behest of the magazine to answer the
20 demands of the reading Japanese public and, therefore,
21 it has no deep significance of any kind. It was not
22 written for the purpose of influencing Japanese policy.

23 THE INTERPRETER: Just before the word "docu-
24 ment" will the reporter insert "this is not a diplomatic
25 document".

1 Q My question to you was whether or not in this
2 article you advocated a military partnership between
3 Japan and Germany for the purpose of better enabling
4 the two nations to carry out their positive policies.

5 A It was not written with such a purpose or
6 objective.

7 Q When you state at page 26 of your affidavit
8 that your constant idea was that a military alliance
9 between Japan and Germany was meant to be used as a
10 means in diplomatic negotiations, did you not actually
11 mean, in keeping with the sense of this article, that
12 you would not hesitate to hold a loaded pistol to the
13 head of your neighbor determined to pull the trigger
14 if he refused to obey your directions?

15 A There is no connection between what I wrote
16 in the magazine article and what I wrote in my affidavit
17 with regard to this as a means in diplomatic negoti-
18 ations.

19 Q Your statement in this article that "our
20 government, at this juncture, must establish national
21 policies and to exert itself to carry them out" was
22 intended as a criticism and an attack on those in the
23 government who were opposed to the Tripartite military
24 alliance, is that not true?

25 A Because I was unfamiliar with conditions within

1 Japan I was not offering any concrete plans or projects
2 or program. I merely wrote in a very abstract manner
3 that the Japanese people should not be disturbed or
4 remain in a state of confusion or unrest. I was not
5 advocating any alliance.

6 Q This public demand made by you that the Japanese
7 government establish national policies at this juncture
8 finally reached fruition in the replacement of the
9 YONAI Cabinet by the Second KONOYE Cabinet in July, 1940,
10 and the conclusion by it of the Tripartite Pact on
11 September 27, 1940, is that not true?

12 A These incidents occurred one after the other
13 but I had no connection with them.

14 Q After your return to Japan from Germany did
15 you have conversations with Ambassador SHIRATORI in
16 which you discussed various aspects of the Tripartite
17 Alliance and, if so, when did these conversations take
18 place?

19 A Being acquaintances we, of course, met but
20 there was no occasion and at no time did we combine
21 together to promote a Tripartite Alliance.

22 Q Now, will you answer my question which is
23 this --

24 A My understanding of your question was whether
25 or not SHIRATORI and I jointly promoted the conclusion

1 of the Tripartite Alliance and it was to that question
2 that I replied that there was no occasion on which we
3 combined on such a project.

4 Q I didn't ask you anything about combining on
5 a project. I asked you if you talked on occasions to
6 SHIRATORI about various aspects of the Tripartite
7 Alliance.

8 A I think there may have been occasions when
9 the subject of the Tripartite Alliance came up when we
10 met but at no time did we ever discuss any concrete
11 measures for it.

12 Q SHIRATORI at that time was still ambassador
13 without assignment, was he not?

14 A I think he was.

15 Q And he discussed with you from time to time or
16 talked with you from time to time about what was going
17 on about the Tripartite Pact, didn't he?

18 A No.

19 Q Well, I understood you to say a moment ago
20 that you did talk of the matter on occasions. Did I
21 misunderstand you?

22 A That isn't so. I said that because we were
23 acquaintances we met socially and the subject may have
24 come up, may have been brought up, but that we had never
25 discussed the question of the Tripartite Alliance in

1 particular.

2 Q Did Stahmer, special envoy of Ribbentrop, con-
3 fer with you in Japan during the summer of 1940 and, if
4 so, in what month did he first talk to you?

5 A I met him but I had no occasion to discuss
6 with him. The time that I met him was in September.

7 Q What time in September?

8 A The first part of it.

9 Q How early in September?

10 A He called on me shortly after he arrived.

11 Q Had negotiations for the pact begun at that
12 time?

13 Q There were no negotiations as yet.

14 Q Did he talk to you about the proposed pact?

15 A No, he did not.

16 Q As a matter of fact didn't you tell him to go
17 and discuss the matter with MATSUOKA.

18 A Oh yes, I did. He came to see me with a present
19 from Germany. At that time he said that he had come
20 with preparations to talk on the matter, to which I said
21 that I was in no position to be concerned with it so that
22 he had better see MATSUOKA and discuss the matter with
23 him.
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25 Q Then did Stahmer go to see MATSUOKA?

A I think he did although I do not know.

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1 Q Now, let me see about that. After these
2 negotiations were opened, weren't you invited to the
3 German Embassy as Stahmer's guest?

4 A As I stated in the interrogation conducted in
5 February, shortly after that I was invited to a dinner
6 at the German Embassy.

7 Q You do not need to refer to any other docu-
8 ment. Just answer my question, please. Did not
9 Stahmer tell you at that time that he was negotiating
10 with MATSUOKA regarding the pact?

11 A Yes, he did. What he said was that negotia-
12 tions were under way and that MATSUOKA wanted to issue
13 a statement but that he, Stahmer, objected to it.

14 THE INTERPRETER: Slight correction: to
15 which he, Stahmer, said that that would be troublesome
16 or objectionable.

17 A (Continuing) I did not hear the contents of
18 the matter broached by Stahmer. That was all he told
19 me, and since it was a dinner affair, we did not go
20 further into the question. I merely told him that he
21 had better see MATSUOKA about it, and I further told
22 him that I was in no position to give him any assistance
23 in the matter. That was all.

24 Q In other words, Stahmer was asking your advice
25 regarding this step in the negotiations, wasn't he?

1 A No, he was not.

2 Q Just a moment -- and you advised him to express
3 his views clearly to MATSUOKA, didn't you?

4 A No. If I were to give him any advice or
5 express my views I would first have to know the contents
6 of the German proposal and what MATSUOKA said in
7 regard thereto.

8 Q Well, didn't you advise him to express his
9 views clearly to MATSUOKA?

10 A No, that was not an advice. I made just such
11 a reply to a question that he put to me, in the course
12 of the conversation.

13 Q Then you are drawing a distinction between
14 advising him to do a thing and telling him to do it?

15 A No, I am not making any distinctions,
16 necessarily. But I am stating that I gave him no advice
17 I do not think that I gave him any advice.

18 THE INTERPRETER: I will repeat the last
19 answer given by the witness:

20 A I am not making any distinctions necessarily.
21 I am only saying that I do not have any feeling I gave
22 any advice.

23 Q Was MATSUOKA or other of the diplomatic
24 councilors of the Foreign Office -- SHIRATORI and
25 SAITO -- present at this conference at the German

1 Embassy?

2 A No one was there. Only I was invited to the
3 dinner.

4 Q This was a private interview between you and
5 Stanmer, with no one else present?

6 A No; Ott was also present.

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1 Q Was not the signing of the Tripartite Pact
2 and the formation of the Imperial Rule Assistance
3 Association jointly celebrated by Japanese and
4 Germans throughout Japan on Sunday morning, 13 October
5 1940?

6 A I do not know.

7 Q By that do I understand that you were not
8 present at any such occasion?

9 A No, I was not present.

10 Q Were you in favor of this partnership between
11 Japan, Germany, and Italy, known as the Tripartite
12 Pact?

13 A I myself, of course, supported it because it had
14 already been decided as a national policy and was also
15 supported by the Japanese people at large.

16 Q At the time of its adoption or conclusion were
17 you in favor of it?

18 A Yes, I expressed favor.

19 Q Were there substantial elements in Japan
20 which did not approve of this pact?

21 A At that time since this question was a very
22 large and important one, I know that there were some
23 who opposed the conclusion of such a pact -- Naturally,
24 as this was a big and important question at that time
25 I thought that there would be some opposition to it,

1 but at that time I did not realize that there were
2 as many opponents to such a pact as I learned through
3 the information presented before this Tribunal.

4 Q Now, what means were used by the leaders
5 in the Japanese Government to silence this opposition?

6 A Being an outsider, I knew nothing.

7 Q Well, is it not true that you do know that
8 an Imperial edict was secured which had the effect of
9 compelling the Japanese nation to follow the provisions
10 of the Tripartite Alliance, and didn't you so inform
11 Hitler or Ribbentrop?

12 A No, I made no such report, but I think it
13 was only natural that the Imperial Rescript expressed
14 the inclination of the people at large -- no, I made
15 no such report, but this Imperial Rescript was used
16 for the purpose of uniting the people as one, and of
17 this fact I informed the leaders of Germany upon my
18 return to that country.

19 Q Did you advise that the Emperor be used in
20 this manner?

21 A Being an outsider, I had no connection with
22 such matters.

23 Q Exhibit 562, page 6,429 of the transcript,
24 is a telegram from Ambassador Ott of 31 January 1931,
25 in which it is stated, "Unity of government and nation

1 behind the Tripartite Pact has been unmistakably
2 proved in the Diet negotiations."

3 What, if anything, did you do to secure
4 the unity of the government and nation behind the
5 Tripartite Pact?

6 A I did nothing.

7 ACTING PRESIDENT: We will recess for
8 fifteen minutes.

9 (Whereupon, at 1445, a recess
10 was taken until 1500, after which the
11 proceedings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE INTERPRETER: If the Court please, this
4 is the Language Section. In two places, just prior
5 to the recess, the interpreter used the words "Being
6 an outsider..." Will the reporters correct this to
7 read "Being one out of office..."

8 ACTING PRESIDENT: Mr. Tavenner.

9 BY MR. TAVENNER (Continued):

10 Q General OSHIMA, I am informed that when I
11 asked you the question a few minutes ago whether or
12 not there was a joint celebration of the conclusion
13 of the Tripartite Alliance and the establishment of
14 the Imperial Rule Assistance Association that I said
15 "October 30, 1941." I meant to say "October 13, 1940."
16 Would that correction of the date change your answer?

17 A No, my answer does not change. I did not
18 attend.

19 MR. TAVENNER: I ask the Marshal of the
20 Court to hand the witness prosecution document 2377.

21 (Whereupon, a document was handed to
22 the witness.)

23 Q It is a copy of the November, 1940 issue
24 of the magazine Dai-Asia Shugi; and I will ask you
25 if you find on page 2 of this issue that there is

1 printed an article entitled, "Tripartite Alliance
2 and the United States" written by you?

3 A Yes, there is. There is, but will you wait
4 just a moment?

5 (The witness examined the document.)

6 A (Continuing) I have no recollection as to
7 ever making -- as to every having given such a talk
8 to a representative of the Dai-Asia Shugi Magazine.
9 It appears to me that this was an article based upon
10 something that I said somewhere else.

11 Q You stated in your interrogation when Mr.
12 Hyde interrogated you that you had published an article
13 in the summer -- fall of 1940 in that very magazine,
14 didn't you?

15 A My recollection is that the magazines --
16 the names of the magazines which I spoke to Mr. Hyde
17 about were the Bungei Shunju and the Yomiuri Shimbun.
18 I have no recollection of ever having mentioned the
19 name "Dai-Asia Shugi Magazine."

20 Q Well, at any rate, this is an article written
21 by you, is it not?

22 A My name is printed here, but I have no
23 recollection of this article. Probably this was the
24 society with which MATSUI was associated, as was
25 mentioned here in this Tribunal a few days ago, but

1 I had no connection with this society at all.

2 Will you give me the opportunity to glance
3 through this article?

4 Q Yes.

5 (The witness examined the document.)

6 A I say with certainty that I have no
7 recollection as to saying to Mr. Hyde that I wrote
8 this article, but after looking at the contents it
9 appears to be something written by me.

10 Q Now, will you examine the inside of the
11 back-cover sheet of this magazine and state whether
12 or not it appears that the magazine is published by
13 the Greater Asia Association?

14 A Yes, it is.

15 Q Will you examine it further and advise me
16 whether or not I am correct in stating that the
17 following accused were officials of this association:
18 MATSUI, Iwane --

19 (The witness spoke.)

20 Q (Continuing) -- Chief of the association,--

21 A Yes.

22 Q -- HIROTA, Koki, SHIRATORI, Toshio, and
23 MATSUOKA, Yokusuke, Councillors of the association;
24 and SUZUKI, Teichi, a Director of the association?

25 A Wait just a moment.

Yes, I see these names.

1 Q When I first asked this question it seemed
2 to me that you replied before it was translated.

3 MR. TAVENNER: I offer for identification
4 only prosecution document No. 2377 and I tender in
5 evidence prosecution document No. 2377-A, an excerpt
6 therefrom, consisting of the article written by this
7 witness.
8

9 ACTING PRESIDENT: It will be admitted
10 accordingly.

11 CLERK OF THE COURT: The Dai-Asia Shugi for
12 1940 will receive exhibit No. 3517 for identification
13 only. The excerpt therefrom, being IPS document 2377-A,
14 will receive exhibit 3517-A.

15 (Whereupon, the document above re-
16 ferred to was marked prosecution exhibit No.
17 3517 for identification; the excerpt there-
18 from being marked prosecution exhibit No.
19 3517-A and received in evidence.)

20 MR. TAVENNER: I will read this exhibit:

21 "The Tripartite Alliance and the United States
22 of America

23 "(I)

24 "The fact that the Tripartite Alliance was
25 concluded recently and the Imperial Rescript graciously

1 promulgated, truly fills one with a sense of gratitude.

2 "As is made clear in the Imperial Rescript,
3 the object of the recent alliance treaty differs
4 greatly in spirit from that of other treaties of
5 alliance. In an old Chinese classic it states:
6 'Heaven begot man, gave him land and substance to
7 enable him to earn his livelihood and practice virtue.'
8 This is most true, and may even be called a Law of
9 Nature.

10 "In our country, we have always striven for
11 the manifestation of Hakko Ichū, ever since the founding
12 of the nation based upon the oracle of Emperor JIMMU.
13 The Sino-Japanese War, the Russo-Japanese War, and the
14 Manchurian Incident were all carried out with this
15 spirit. It is needless to say that the present China
16 Incident, too, is being carried out with the idea of
17 improving China and of trying to establish a new order
18 in East Asia.
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1 "In Europe, too, the object of Germany
2 and Italy in starting the recent war is quite
3 different from those of previous ones. Hitler says:
4 'God did not create the world for one or two races.
5 Those born into this world have the right to live
6 in this world, at the same time. The natural re-
7 sources of the world exist for the purpose of
8 realizing the right of mankind to live in this
9 world.' The term 'right' appears and the expression
10 is incorrect, but his idea is to enable all people
11 to obtain their place in the world. Also after the
12 commencement of the European War, Hitler said:
13 "The aim of this European War lies in the estab-
14 lishment of a new order in Europe which excludes the
15 restrictive interference of England.'

16 "In this way, the war aims of Germany and
17 Italy lie in correcting the illogicality of the old
18 system existing in the world. It is similar to our
19 object in dealing with the China Incident, and this
20 is why the recent alliance was concluded. In other
21 words, Germany and Italy also comprehended the mani-
22 festation of Hakko Itchu, which is the great spirit
23 of the Japanese national foundation.

24 "Consequently, this alliance treaty differs
25 altogether in spirit from those concluded so far. If

1 we look at history, we can see that there have been
2 until now many treaties with various nations on
3 alliances, agreements, trades, etc., but they were
4 all concluded for the purpose of fulfilling personal
5 desires. For instance, when Nation A wanted to
6 attack Nation B, she formed an alliance with Nation
7 C, and the two of them attacked Nation B together.
8 Or, in an extreme case, when A wanted to attack B,
9 she induced C into an alliance, and in the actual
10 battle A herself did not exert much effort but made
11 C attack B, and tried to reap the fruits only.
12 Britain is a good example of this.

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1 "As I have just stated, the fact that this
2 recent alliance was concluded with the grand object
3 of establishing a new order in the world, constitutes
4 the great feature of the treaty. We must fully
5 recognize this significance, and I believe that the
6 entire nation must unitedly support the Government
7 in order to make the application of this treaty
8 effective and appropriate.

9 "I shall next state two or three points
10 concerning the contents of the alliance. In this
11 treaty, Germany and Italy recognize and respect our
12 position of leadership in Greater East Asia. It is
13 needless to say that since the Meiji Era, our nation,
14 as the stabilizing force in East Asia, has contrib-
15 uted to the happiness of the peoples of East Asia
16 and is striving further for this end by having paid
17 great sacrifices in the Sino-Japanese War, the
18 Russo-Japanese War and in the China Incident which
19 is now taking place.

20
21 "Supposing that Japan did not exist, what
22 then would have been the conditions in East Asia?
23 There are countries in the world where culture was
24 developed early. These countries have advanced to
25 Africe, America, and finally to Asia, and a great
number of the Asiatic people have been conquered by

1 the leading European and American nations. And
2 conditions of semi-colony or of slavery have come
3 about, and the natural resources have all been
4 monopolized by these nations. The natives have
5 worked and worked, but the fruits of their labors
6 were taken away by the American and European nations
7 who are the owners. Their force knew no limit, and
8 at one time the partitioning of China was even ad-
9 vocated. However, our nation has by herself been
10 stopping and preventing the greed and ambition of
11 the European and American nations.

12 "The recent changes of the world situations
13 have conspicuously intermingled the interests of
14 the various nations of the world. Since the estab-
15 lishment of the new order in East Asia is greatly
16 influenced by situations in Europe and America, I
17 believe that the conclusion of the recent Tripar-
18 tite Alliance is extremely advantageous for the
19 purpose of accomplishing our plans.

20 "The Tripartite Alliance is advantageous
21 to our country, but at the same time, we must give
22 our co-operation to the establishment of the new
23 order of Germany and Italy, and the responsibilities
24 have become greater than ever. How to truly realize
25 our leading position, or in other words, what sort

1 of a new order should be establish in leading East
2 Asia? This is the grave mission which confronts
3 Japan. The conditions in the Dutch East Indies,
4 French Indo China, and perhaps in India and the
5 various South Sea Islands must naturally be improved.
6 It is essential that we immediately plan with our
7 Allies, German and Italy, and establish a concrete
8 policy and commence with its realization in a
9 positive manner.

10 "(II)

11 "Next comes the question of the understand-
12 ing which is included in the treaty which concerns
13 attacks made by third Powers which are not connected
14 with the present war, or conflict. This is exactly
15 in line with the frequent statements of Government
16 authorities to the effect that this Treaty absolutely
17 does not have war as its object. Anyone can see that
18 this Treaty is a peaceful one if he reads the text.
19 However, according to newspapers and cables, it
20 seems that some of the people of the United States
21 claim that this Treaty is a challenge against the
22 U. S., but this is most puzzling since it is common
23 knowledge in the world that Japan has never thought
24 of laying a hand on any U. S. territory or made any
25 preparations for it.

1 "Above all, for over three years, our
2 country has been devoting herself to settle the
3 China Incident; what need has she to make an
4 enemy of the United States? The United States her-
5 self surely should understand this best. Therefore,
6 we cannot help but conclude that to regard this
7 treaty as a challenge to the United States means
8 either that she is unhappy about the establishment
9 of a new order in East Asia by our country, or that
10 she harbors an ambition towards East Asia.

11 "The United States of America is by no
12 means the judge of the world. If she, who has rich
13 resources and sufficient productive power in her
14 own continent, crosses the Pacific Ocean and thinks
15 of making advances into East Asia, then it will be
16 violating the above-mentioned law of Nature, and she
17 will surely be punished severely by Heaven. It is
18 actually mentioned in the preamble of the Treaty that
19 there should be no hesitancy in co-operating with any
20 country which wishes to establish a new order in
21 the world. If the United States truly desires world
22 peace, she should naturally co-operate in the estab-
23 lishment of a new order in East Asia, for which our
24 country is making efforts. Let me add in passing
25 that if the United States thinks she can make Japan

1 yield by threats, it is also a great mistake. The
2 American attitude was practically unbearable ever
3 since the outbreak of the China Incident, but Japan
4 has been devoting herself to the settlement of the
5 China Incident and has been tolerantly awaiting the
6 United States to reconsider. The United States must
7 consider the present Tripartite Alliance an oppor-
8 tunity for her to make reconsiderations. The Japa-
9 nese are by nature a patient people, but it must be
10 remembered that there is a limit to this. If the
11 United States, with her rich resources, would
12 endeavor to establish a new order on the American
13 continent and would carry out a fair policy of ex-
14 changing resources with other continents, then not
15 only will she contribute to world peace, but also
16 much happiness will be brought to the people of the
17 American continent.
18

19 "As mentioned above, by the Tripartite
20 Alliance, our country has made a start towards a
21 new diplomacy. Success or failure in this will not
22 only decide the destiny of our country and the wel-
23 fare of the peoples in East Asia but also have much
24 effect upon the establishment of world justice. At
25 this turning point of the world, all the people of
our country should make combined efforts for the

1 great Imperial ideal of the establishment of a new
2 order in Greater East Asia in accordance with the
3 Imperial wishes which have been recently promul-
4 gated."

5 BY MR. TAVENNER (Continued):

6 Q General OSHIMA, having used your influence
7 at a critical period in Japanese relations by publi-
8 cation of your article in the January, 1940, issue
9 of Bungei Shunju, the great weight of your influence
10 was again used in another critical period in your
11 effort by this article to unify both the Government
12 and the Nation behind the Tripartite Pact, is that
13 not true?
14

15 A I do not think that these two articles of
16 mine could have such a great influence upon society,
17 and articles written by an obscure Ambassador can-
18 not influence Japanese diplomacy.

19 I should like to add that the latter
20 article was written on the basis of the Imperial
21 rescript and the statement issued by the Japanese
22 Government generally.
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1 Q In this article you state, "The fact that
2 this recent alliance was concluded with the grand
3 object of establishing a new order in the world con-
4 stitutes the great feature of the treaty." What pro-
5 visions of the treaty provide for this great feature?

6 A Not being a drafter of the treaty, all that I
7 know is what I learned from what I heard later, and from
8 my own studies of this alliance pact. However, in
9 Article 1 there is a phrase, "To enable each and every
10 people to have their proper place in the world." I do
11 not know the exact language of the text, but the ideal
12 of the new order is expressed therein. That is what I am
13 referring to in the article.

14 Q Let me read you the exact language of that pro-
15 vision of the preamble relating to the new order:

16 "The three governments have made it a funda-
17 mental principle to establish a new order for co-
18 prosperity of its own race in Great Asia and Europe, and
19 to maintain the same end have reached the decision to
20 cooperate and coassist each other in carrying out this
21 basic fundamental in each respective field."
22

23 That is the provision, as I understand you,
24 which constitutes the great feature of this treaty.

25 A Several years having elapsed since the con-
clusion of this pact, I cannot recall with exactitude

1 the exact language in the preamble of the treaty. How-
2 ever, I can say that the expression, "the new order"
3 represents the new feature of this treaty.

4 Q And then in Article 3, the first clause of it,
5 there is a provision which implements this preamble
6 provision in this language:

7 "Japan, Germany and Italy shall agree to co-
8 operate with one another in carrying out the aforemen-
9 tioned policy."

10 Then this new feature of the treaty which you
11 speak of is the new order provided for in the preamble
12 and which was implemented by this provision which I have
13 just read from Section 3 of the pact. That is correct,
14 is it not?

15 A That the three powers shall cooperate for the
16 establishment of the new order is not all -- does not
17 represent everything. The establishment of the new
18 order is the ideal and for this purpose various steps
19 are to be taken, and one of them -- that is, one of those
20 steps -- is there provided for.

21 MR. TAVENNER: I understand counsel has a
22 language correction.

23 ACTING PRESIDENT: Mr. Cunningham.

24 MR. CUNNINGHAM: I would like to have the
25 matter referred to the Language Section. There seems

1 to be a mistake. "New order of its own race" instead
2 of "new order for the nations of the respective areas"
3 about two questions back.

4 ACTING PRESIDENT: Do you refer to exhibit
5 3517-A?

6 MR. CUNNINGHAM: Yes.

7 MR. TAVENNER: If the Tribunal please, the
8 reference was made to a quotation that I made from the
9 preamble of the pact. The correction as he has made
10 does not change the sense of the language. I read
11 from one of the exhibits in evidence, and of course
12 if there has been an error in translation, it should
13 be corrected.

14 ACTING PRESIDENT: It will be referred to the
15 Language Section.

16 THE WITNESS: May I continue?

17 MR. TAVENNER: I think you have finished,
18 haven't you, General OSHIMA?

19 THE WITNESS: No, I have not.

20
21 A As I understand the question it is this: In
22 what sense does this pact contain new features? And
23 so in answer to that question I spoke of the conception
24 of the new order as mentioned in the preamble, but I
25 have not spoken to you by way of explanation as to what
the new order meant. If you would like to have my

1 reply on that, I shall be glad to do so.

2 MR. TAVENNER: I did not ask you that question,
3 and at this time I will not insist on your answering.

4 Q Will you tell the Tribunal, please, what Hit-
5 ler and Mussolini did to carry out the fundamental
6 principle, that is, the new order, contained in these
7 provisions of the pact to which we have referred?

8 A And at this point I should like to say what
9 the new order means. It means that --

10 MR. TAVENNER: Now, just a moment --

11 A (Continuing) It expresses the desire to
12 create a new and unoppressed society in the world.

13 Q Well, just answer my question, please, and
14 tell me what Hitler and Mussolini did to carry out this
15 new fundamental principle, provided for in the pact.

16 A I think that what they were doing accorded with
17 the principle.

18 Q In other words, both Hitler and Mussolini
19 continued to wage the war of aggression in Europe in
20 which they were then engaged, at the time of the con-
21 clusion of this pact; isn't that true?

22 A That depends on the person.

23 MR. TAVENNER: Will you repeat that, please?

24 (Whereupon, the last answer of the
25 witness was read by the official court reporter.)

1 THE MONITOR: Correction: That depends on
2 different individuals, in the way they look at it.

3 Q Well, how did you look at it?

4 A I did not necessarily consider this action to
5 be aggressive.

6 Q Was there any doubt in your mind about Germany
7 being engaged in an aggressive war, in the light of
8 your information?

9 A I have conducted no detailed investigation on
10 this matter because the question --

11 (Whereupon, at the request of the
12 interpreter, the Japanese court reporter read.)

13 As the matter of whether this was an
14 aggressive war or not had no direct connection with
15 Japan, I made no detailed investigation.
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1 THE MONITOR: Correction: That depends on
2 different individuals, in the way they look at it.

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7 being engaged in an aggressive war, in the light of
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14 aggressive war or not had no direct connection with
15 Japan, I made no detailed investigation.
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1 Q That is not my question. My question to you
2 was, did you not know and recognize at the time of the
3 conclusion of this pact that Germany was engaged in
4 an aggressive war?

5 A That is why I replied that I am in no position
6 to give my own judgment because I did not conduct any
7 detailed investigations as to whether or not this was
8 necessarily an aggressive war. Let me add here that
9 efforts were made at Geneva to define the word aggres-
10 sion and a treaty was created but not one country
11 ratified it. And having made no study of the funda-
12 mental nature of the European war, I am telling you
13 that I am in no position to state flatly whether this
14 was an aggressive war or not.

15 Q Let me ask you this question: With all your
16 experience and knowledge of German affairs, is there
17 any doubt in your mind that the annihilation of Poland
18 on the pretext of the Danzig affair, as stated in your
19 article of January 1940, was aggressive or defensive?

20 ACTING PRESIDENT: Mr. Cunningham.

21 MR. CUNNINGHAM I ask that the matter of the
22 interpretation "on the pretext of Danzig" be referred
23 to the Language Section. There seems to be an error in
24 translation on that.

25 ACTING PRESIDENT: You have been instructed before,

1 as I understand it, that you can take it up with the
2 Language Section without referring it to the Court.
3 I don't mean you personally, but all counsel.

4 MR. CUNNINGHAM: Well, this is a matter that
5 is hot now and we would rather have it cured now than
6 when it gets cold.

7 ACTING PRESIDENT: We will refer it to them now.

8 MR. TAVENNER: It has cooled off quite consid-
9 erably, your Honor, since this lengthy interruption.

10 A My reply is this: That not even Geneva was
11 able to decide the meaning of the word aggression,
12 so that it is unreasonable to ask me to define that
13 term.

14 Q I was not asking you to define the term and
15 state all the shades of meaning of it. I was asking
16 you whether or not the action of Germany in overrunning
17 Poland was, in your opinion, a defensive matter for
18 Germany.

19 A It is an undeniable fact that it was Germany
20 which opened the attack.

21 Q All right. Hitler's General Order No. 24,
22 exhibit 573, page 6,470 of the transcript, provided
23 that the aim of the cooperation based on the Three-Power
24 Pact must be to bring Japan as soon as possible to
25 active operations in the Far East. Did you not state

1 in your interrogation that by the issuance of this
2 order Hitler may have intended to invoke the state-
3 ment in the preamble about the building of a new order
4 in East Asia?

5 A I did not answer in that sense. I do not
6 know how the other party replied and I did not even
7 know of such an order.

8 Q I understand that, but that is not my question.
9 My question to you was whether or not you stated that
10 Hitler, in the issuance of such an order, endeavored
11 to invoke the statement in the preamble to the pact
12 about the establishment of the new order?

13 A No. I never thought of that that way. I do not
14 know how he thought.

15 Q My question to you was whether or not you
16 stated to Mr. Hyde that Hitler intended to invoke the
17 statement in the preamble about the building of a new
18 order in East Asia.

19 A I have no recollection of making such a reply.

20 Q Well, let me see if I can refresh your
21 recollection. Now, was not this question asked you
22 and this answer made by you, at page 260 of your
23 interrogation, March 7, 1946:

24 "Q Why would Hitler issue such an order
25 and base the collaboration upon the Pact unless there
was either something in the Pact or an understanding

1 between Japan and Germany?

2 "A I do not know why he said so. Maybe he
3 intended to invoke the statement in the preamble about
4 the building of a new order in East Asia. I do not
5 know."

6 Did you make that answer to the question that
7 I read to you?

8 A I think there is some mistake. I have no
9 recollection of having made such a reply.

10 Q Is it not a fact that you showed to Hitler
11 a military map of Singapore containing the location
12 of field fortifications and gun emplacements and
13 discussed with him the difficulties of an attack
14 upon Singapore?

15 A It is a fact that I showed him a map, but I
16 never discussed with him as to the method of attack
17 or anything of that nature.

18 Q Did not Hitler ask you how long it would take
19 to reduce Singapore?

20 A Yes, he did.

21 Q Did you not discuss the difficulties of an
22 attack?

23 A No, we had no discussion.

24 Q In your interrogation did you not justify this
25 act on your part, that is, the delivery of the map,
by stating that it was in accord with the agreement

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1 at the time of the conclusion of the Tripartite Pact?

2 A No, I did not say anything of the kind. Even
3 if I did not say so, I think that what I did was
4 justifiable.

5 Q On what grounds?

6 A There should be nothing wrong in showing them
7 a map in answer to their wish.

8 Q Was that what you considered to be in conformity
9 with the fundamental principle of this Pact relating to
10 the establishment of a new order?

11 A There is no connection whatsoever.

12 ACTING PRESIDENT: We will adjourn until 9:30
13 Monday morning.

14 (Whereupon, at 1600, an adjournment
15 was taken until Monday, December 1, 1947, at
16 0930.)

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1 DECEMBER 1947

I N D E X
of
WITNESSES

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1 DECEMBER 1947

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1383F(1)		3518	Telegram No. 480 dated 3 May from Ambassador OSHIMA to Foreign Minister MATSUOKA		34236
1383F(2)		3519	Telegram No. 373 dated 5 May 1941 from Foreign Minister MATSUOKA to Ambassador OSHIMA		34244
889		3520	Supplementary Pro- tocol(Articles 1 to 11)		34246

1 Monday, 1 December 1947

2 - - -
3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 Appearances:

12 For the Tribunal, all Members sitting, with
13 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
14 WEBB, Member from the Commonwealth of Australia, not
15 sitting from 0930 to 1600.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -
19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 ACTING PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon at Sugamo cer-
6 tifying that he is ill and unable to attend the trial
7 today. The certificate will be recorded and filed.

8 Mr. Tavenner.

9 - - -

10 H I R O S H I O S H I M A, an accused, resumed the
11 stand and testified through Japanese interpreters
12 as follows:

13 CROSS-EXAMINATION

14 BY MR. TAVENNER (Continued):

15 Q General OSHIMA, on Friday afternoon I asked
16 you questions relating to what you termed in your
17 article to be the fundamental principle of the Tri-
18 partite Pact, and I asked you what Hitler and Mussolini
19 did to carry out the fundamental principle. I now
20 ask you what did Japan do to carry out the fundamen-
21 tal principle of the pact relating to the establishment
22 of the New Order?

23 A Although the idea of the principle of the
24 New Order was one of the purposes of the pact, work
25 did not proceed to the point where it was concretely

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19 did to carry out the fundamental principle. I now
20 ask you what did Japan do to carry out the fundamen-
21 tal principle of the pact relating to the establishment
22 of the New Order?

23 A Although the idea of the principle of the
24 New Order was one of the purposes of the pact, work
25 did not proceed to the point where it was concretely

1 materialized. That is all.

2 Q It was not completely materialized because
3 you lost the war, isn't that true?

4 A It is my interpretation and understanding
5 that Japan engaged in war for her own self-defense
6 and not for the purpose of creating a new order.

7 Q Did not Japan continue the war with China
8 which had been in progress many years prior to the
9 conclusion of the pact?

10 A Japan referred to these hostilities as the
11 China Affair. It is a fact that these hostilities
12 continued.

13 Q Did not Japan continue its efforts to estab-
14 lish the New Order in East Asia under these provisions
15 of the pact by the military occupation of Indo-China
16 where naval and air bases were secured for use by
17 Japan?

18 A In view of the fact that I was then in Ger-
19 many I am unable to testify with regard to what Japan
20 was doing in any detail, and for what purpose Japan
21 was engaged in certain things, because I was not
22 notified or informed of these activities.

23 Q In your article published in the November 1940
24 issue of Dai-Asia Shugi you informed the Japanese
25 nation that it was necessary that they cooperate in

1 the establishment of the so-called New Orders of
2 Germany and Italy. Was this not based on these pro-
3 visions of the pact?

4 A The Tripartite Pact had already been concluded,
5 an Imperial Rescript and a government statement had
6 been issued, and my statement in the article was a
7 mere repetition of what had already been announced.
8 But I do not refer here to what must be done concretely
9 in order to carry out the pact, rather I am mentioning
10 these matters here more as a symbol, more as an idea
11 than anything else.

12 Q In other words, General OSHIMA, the latter
13 part of Article 3 of the pact regarding aid in the
14 event of attack by a power not presently engaged in
15 war in Europe or Asia, was in fact designed as a
16 cloak to conceal and a shield to protect the partici-
17 pating powers in the course of conduct in which they
18 were then engaged in Europe and in China. Is that not
19 true?
20

21 A Not having participated in the drafting of
22 the pact I do not know actually what the intentions
23 were. But in so far as my understanding is concerned
24 there was absolutely no intention of concealing
25 anything.

Q General OSHIMA, exhibit 559, page 6,417 of

1 the transcript, is a memorandum between Japan, Germany
2 and Italy, bearing date 20 December 1940, providing
3 for the establishment of a General Commission, Mili-
4 tary Commission and an Economic Commission. Were you
5 head of the General Commission in Berlin?

6 A Yes. But I was just a member of the General
7 Commission; there was no chairman.

8 Q Was your commission charged with the respon-
9 sibility of determining, in the event of war, whether
10 a party to the pact had been attacked within the mean-
11 ing of Article 3, that is, whether the contracting
12 party was the aggressor or not?

13 A No, it had no such responsibility. Its work
14 was to assemble all possible data, to report such
15 data to the home government, and the decision on such
16 matters was to be made by the home government.

17 Q You state that it had no such responsibility?

18 A No responsibility. Its duty was merely to
19 assemble data.
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1 Q Now I desire to read to you a question and
2 answer from your interrogation of February 15, 1946:

3 "Q So that actually this treaty makes no provision
4 that the signatory parties are to help one another only
5 in the event that one has an attack made upon it that
6 is unprovoked. There is no requirement that such a
7 condition exist. It was a mutual aid pact and provided
8 in effect, did it not, that if one of the three is
9 attacked then the other two will help the one that has
10 been attacked?

11 "A In substance this is what I believe it means.
12 No, I know it to be so. The right to decide whether
13 one of the signatories was attacked and whether the
14 others will furnish aid is left up to this commission.
15 To put it differently, let us say that the United States
16 and Germany had gone to war. Japan was not obligated
17 to furnish aid unconditionally. The Commission was to
18 decide whether the attack had occurred or not."

19 Now, was that question not asked you and that
20 answer given by you? Please answer yes or no.

21 A Such a question and answer took place but there
22 must have been some misunderstanding or some misinter-
23 pretation in what is written on what you have just
24 quoted from. The memorandum clearly stipulates that the
25 decision was to be made by the contracting powers. If

1 Q Now I desire to read to you a question and
2 answer from your interrogation of February 15, 1946:

3 "Q So that actually this treaty makes no provision
4 that the signatory parties are to help one another only
5 in the event that one has an attack made upon it that
6 is unprovoked. There is no requirement that such a
7 condition exist. It was a mutual aid pact and provided
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13 one of the signatories was attacked and whether the
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16 and Germany had gone to war. Japan was not obligated
17 to furnish aid unconditionally. The Commission was to
18 decide whether the attack had occurred or not."

19 Now, was that question not asked you and that
20 answer given by you? Please answer yes or no.

21 A Such a question and answer took place but there
22 must have been some misunderstanding or some misinter-
23 pretation in what is written on what you have just
24 quoted from. The memorandum clearly stipulates that the
25 decision was to be made by the contracting powers. If

1 you will see the memorandum the matter would be quite
2 clear. Of course, it would be quite possible for the
3 question as to who attacked or who was attacked would
4 come up for discussion at the conference of the general
5 commission but the procedure was that reports of the
6 data be sent to the home governments and for the home
7 governments to make the decision.

8 Q Was this general commission of which you were
9 a member ever called into session to determine who
10 was the aggressor between a party to the pact and a
11 third power?

12 A No, not once.

13 Q Did you receive a joint order from the War
14 Minister, Navy Minister and Foreign Minister at the time
15 of the establishment of the commission under the Tri-
16 partite Pact which changed the existing rule relating
17 to the duties of an ambassador by providing that in the
18 case of the ambassador to Germany permission was given
19 to discuss matters of a military nature with German
20 officials if the Japanese military and naval attaches
21 and members of the military commission accompanied the
22 ambassador to such conferences?

23 A That requires some explanation. The duties
24 were not changed. There was no change in principle
25 that the ambassador being a civil official was not to

1 participate in military matters. However, because
2 High Command matters were not handled in Germany and
3 Italy as they were in Japan, if such matters should ever
4 come up for discussion at the meeting of the general
5 commission it was unavoidable that the Japanese ambas-
6 sador must take up the matter and restriction was
7 placed in this regard that the ambassador on such
8 occasion must be accompanied by the military and naval
9 attaches.

10 Q Just a moment. I did not confine my question
11 to meetings of the commission. My question was broader
12 than that. It referred to discussions generally with
13 German officers.

14 A As I have said before, this was the power given
15 to the ambassador in discussing at the general commis-
16 sion.

17 Q Well, I am asking you if you weren't given
18 power to discuss military matters with German officials
19 generally, not merely at conferences of the commission.

20 A No, I was not given any such authority.

21 Q Well, is it a fact that you did frequently
22 discuss military matters with Hitler, Ribbentrop and
23 other high-ranking German officials without having
24 present at the conferences any of the officials required
25 to be there under the joint order that I read to you?

1 A at times the German side brought up matters of
2 a general nature but they were never discussed. When
3 such matters came up, inasmuch as they did not require
4 negotiations with the Japanese government, I transmitted
5 them to the military -- transmitted to the military
6 and naval attaches and those attaches in turn communicated
7 with their headquarters in Tokyo.

8 (Whereupon, at the request of the
9 Monitor, the Japanese court reporter read.)

10 THE MONITOR: No corrections.

11 THE INTERPRETER: The witness explained to
12 the reporter who had taken down that the Japanese
13 military and naval attaches took the matter up with
14 the Japanese military and naval attaches, correcting
15 that to mean that the Japanese military and naval
16 attaches in Berlin had communicated the matter to the
17 Army and Navy in Japan.
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1 Q In other words, regarding military matters
2 you were a mere messenger in the Embassy, conveying
3 information from the German military authorities to
4 the attaches without your taking part in any negotia-
5 tions regarding them. Is that what you would have
6 us believe?

7 A You have just spoken of military matters,
8 but the scope is very wide. There are some military
9 matters which it is in the competence of a civil
10 official to handle. On the other hand, there are also
11 military matters of a very specialized nature, genuine
12 military matters which require handling by military
13 men. With respect to such purely genuine military
14 matters, I did, as the prosecutor suggested, act as
15 a sort of messenger boy to the military and naval
16 attaches. I wish further to add, moreover, that as
17 far as most matters were concerned they were dis-
18 cussed and disposed of between the Japanese military
19 and naval attaches and the competent military and
20 naval officials of the German side.

21 Q Is it not true that on 2 January 1942
22 you informed Ribbentrop that you had received from
23 your government instructions which permitted you to
24 concentrate in your hands all questions in regard
25 to the general line of cooperation in a common war

1 and that only questions of details in the military
2 and economic fields would be dealt with by the
3 military and economic member of the special commis-
4 sion under the Tripartite Pact?

5 A 1942, did you say?

6 Q Yes.

7 A I received no such instructions. The German
8 side did desire that I have such instructions, but
9 the system in Japan did not permit of such instruc-
10 tions, and I did not receive any. The general com-
11 mission, the economic commission, and the military
12 commission were each independent of each other. The
13 general commission could seek the cooperation of the
14 other commissions, but it had no power of direction
15 or command.

16 Q That was not responsive at all to the
17 question I asked you, and may I remind you of the
18 importance of making your replies applicable specifi-
19 cally to the question that I ask you.

20
21 Do you not recall that at the conference I
22 mentioned Ribbentrop said to you that he welcomed the
23 concentration of authority in your hands because it
24 switched the center of gravity of the Tripartite
25 Commission to Berlin?

A I have no exact recollection, but I do know

that Ribbentrop was a man who had such ideas.

1 Q Well, is it not true that at a conference
2 with Hitler on the following day, 3 January 1942,
3 Hitler stated to you that he would discuss military
4 affairs only with you personally?

5 A I have no recollection that he said that.

6 Q And did you not say to Hitler at this con-
7 ference that you were empowered by your government
8 to discuss the prosecution of the war with the German
9 Foreign Minister?
10

11 A No, I was only empowered with handling the
12 political aspects, and only for the handling of these
13 political aspects was I responsible, and I think
14 naturally I told this to him. If permitted I should
15 like to explain two or three points with regard to
16 the actual situation.

17 MR. T. VENNER: In regard to what?

18 THE INTERPRETER: In regard to the actual
19 situation -- then prevailing.

20 Q I don't think the explanation is necessary
21 unless it is in specific answer to my question as to
22 whether or not you made that statement, but possibly
23 my next question will reach the matter that you have
24 in mind.
25

Did you not further state to Hitler that

1 while individual questions might be discussed between
2 the army, the airforce, and the navy, it was of prime
3 importance that the principal policy be laid down
4 exclusively by you and the Foreign Minister?

5 A I do not know what expression was used, but
6 I think I said that policy matters were under my
7 charge.

8 Q And is this not what was actually done; that
9 is, were not the matters of prime importance and the
10 principal policies settled by you and Ribbentrop?

11 A We talked, but there was no case of our
12 deciding any new policy.

13 Q Is it not also true that you stated to
14 Hitler that this same method should be applied to
15 economic and political questions?

16 A Whether I said that or not, I do not recall,
17 but it was within my authority to handle political
18 and economic matters. That is a fact.

19 Q General OSHIMA, did not Japan and Germany,
20 prior to Pearl Harbor, exchange raw materials for use
21 in the wars that were being waged by both Japan and
22 Germany?

23 A Yes, but on a very small scale.

24 Q Did not Japan and Germany prior to Pearl
25 Harbor exchange military information and technical

OSHIMA

CROSS

34,213

1 knowledge?

2 A Not in so far as my participation was
3 concerned. If such exchange did take place it
4 probably took place between the respective armies
5 and navies of both countries.

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1 Q You state on page 4 of your affidavit that
2 you approved the exchange of culture between Japan and
3 Germany. Did this exchange of culture include scien-
4 tific knowledge and inventions useful in the waging of
5 war?

6 A No, these were absolutely not included.

7 Q Is it not true that many German agents migrated
8 to Japan between 1938 and 1942 in the guise of business
9 men, technicians, advisers, teachers and tourists for
10 the purpose of instructing the Japanese in the Nazi
11 way, economically, politically, and militarily?

12 A In so far as I know, I know of no case of any
13 Germans being employed to study Nazi methods.

14 THE INTERPRETER: Correction: In so far as
15 I know, I know of no case in which Germans were em-
16 ployed as teachers in the methods of the Nazis.

17 A (Continuing) But I knew that some technicians
18 were employed for the purpose of studying technical
19 matters. The period to which you have referred also in-
20 cludes the period during which I was a military attache
21 in Germany. At least during my tenure of office as
22 military attache not one German officer came to Japan
23 as an instructor.
24

25 Q Were not many officers in the Japanese Army
and Navy sent to Germany for study?

1 A The Japanese army and navy sent their young
2 officers not only to Germany but to France, to Italy,
3 to the United States, to Great Britain and other
4 countries.

5 Q And did many of them study at the University
6 of Munich?

7 A As far as I know, I know of no Japanese officer
8 who studied at a German university.

9 THE MONITOR: Before "officer" insert "army":
10 "army officer."

11 Q What about civilians?

12 A Civilians studied at various universities. They
13 were not limited to Munich alone.

14 Q Did they study at Munich?

15 A There may have been some who studied at
16 Munich University, but they were not limited to that
17 school alone.

18 Q Was Karl Haushofer known as the leading German
19 authority on Japan, and were his works read and studied
20 by Japanese both in Germany and in Japan?

21 A In Germany he was one of those who knew Japan.
22 I cannot say, however, that his works were read widely
23 in Japan.

24 Q Did you not tell Mr. Hyde in your interroga-
25 tions that his works were read widely by Japanese

1 students in Germany and in Japan?

2 A His works were widely read by Germans in
3 Germany and by Japanese -- to some extent by Japanese
4 in Germany. But his works had no influence whatsoever
5 in Japan, itself.

6 Q Is it not true that Haushofer's theory of geo-
7 politics constituted the basis of Nazi philosophy of
8 geographic expansion?

9 MR. CUNNINGHAM: I should like to object. We
10 are getting far afield from the real issues involved
11 in this case. It does not seem as though this matter
12 has any direct bearing on any of the issues involved.

13 ACTING PRESIDENT: What is the materiality,
14 Mr. Tavenner?

15 MR. TAVENNER: The materiality is the influence
16 of this notorious leader in German thought upon those
17 in Japan who came in contact with him, which, of course,
18 involves his political thinking and Nazi ideology.

19 ACTING PRESIDENT: By a majority, the objection
20 is sustained.

21 Q In your news article of January 1940, exhibit
22 3516-A, you refer to the possibility that the Soviet
23 Union desired to reach a rapprochement with Japan in the
24 Far East after the conclusion of the German-Russian
25 Non-Aggression Pact. Do I correctly understand from

1 this that in January 1940 you favored a rapprochement
2 between Japan and the U.S.S.R.?

3 A I do not quite recall. May I be shown that
4 article?

5 Q It is the article which was read to you on
6 Friday.

7 A Are you referring to the article in the Dai-
8 Asia Shugi?

9 Q The one in January 1940, which was the other
10 magazine, I think.

11 A I have no recollection, but I did desire a
12 rapprochement between the Soviet Union and Japan.

13 Q Shortly after your return to Germany on your
14 second mission as Ambassador, did you learn of the
15 probability of an attack by Germany on Russia?

16 A What is the time you are referring to?

17 Q Well, you returned to Germany as Ambassador in
18 February, 1941. That is the time I am referring to.

19 A I did not even imagine such a thing at that
20 time.

21 Q Did you not have a conference with Hitler in
22 February or March, 1941, in which Hitler advised you that
23 Germany would probably attack Russia?
24

25 A I had no such conference with him. However,
when MATSUOKA came to Berlin, I did not know which it

OSHIMA

CROSS

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1 was, whether it was Hitler or Ribbentrop -- one of the
2 two -- said at a meeting in which I also sat, something
3 to that effect although very vaguely.
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1 Q Well, do you not recall that in March, 1941,
2 you told YOKOI, your Naval Attache, of a conference
3 you had with Hitler, in which he told you of the
4 German probability of an attack against Russia?

5 A I probably told him of the conversation
6 that took place between MATSUOKA and the German
7 leaders, but the meaning here is different.

8 Q Well, in what way is it different?

9 A It is suggested by what the prosecutor
10 read, as if the German attack on Russia was already
11 decided, but the expression used by Hitler or
12 Ribbentrop, I don't remember which it was, was not
13 that certain. It was very vague.

14 Q Aside from any direct statement to you by
15 German officials on that matter, did you not have
16 reason to believe, from the concentration of large
17 bodies of troops on the Russian border and the
18 extensive military preparations then being made, that
19 Germany would probably attack Russia?

20 A Yes. The reason why I considered the great
21 probability of a war between Germany and the Soviet
22 Union was on the basis of this great increase in
23 forces, but I could not arrive at the conclusion
24 that such movements would inevitably lead to war.
25

Q Then, you did consider at this time, did

1 you not, that while Germany had seemed to desire
2 Japanese-Russian friendly relations in the past, the
3 conditions were changing in regard to German-Russian
4 relations at this time, and so it would be the wise
5 thing, after all, to consider any proposed non-
6 aggression pact between Japan and Russia?

7 Probably that question is too long. Let
8 me ask you again.

9 Is it not true that at this time, that is
10 the latter part of March or the first of April,
11 1941, that you considered that the relations between
12 Germany and Russia were undergoing a change?

13 A Yes, that was the impression I had during
14 the latter part of March and the early part of April.

15 Q I am sorry. I did not get the reply.

16 (Whereupon, the last answer was
17 read by the official court reporter.)

18 Q Then, did you not come to the conclusion
19 that, in the light of that information or that situ-
20 ation, it would be better to think things over care-
21 fully before Japan and Russia should enter into a
22 non-aggression pact?
23

24 A I thought that we mustn't be too hasty.

25 Q And, then, when you accompanied MATSUOKA on
the train to the border, when he left Germany for

OSHIMA

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1 Moscow, you advised him accordingly, didn't you?

2 A Yes, I did.

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1 Q After MATSUOKA arrived in Moscow he still
2 communicated with you on several occasions regarding
3 the progress of the negotiations with Russia for the
4 Non-Aggression Pact, didn't he?

5 A In my recollection I think I received a
6 telegram twice -- on two occasions.

7 Q Did MATSUOKA always advise you regarding the
8 progress of his negotiations with other countries?

9 A No, he did not.

10 Q In testifying on cross-examination, page
11 34,147 of the transcript, you stated that economic
12 matters were entirely in the hands of economic experts,
13 and on the following page you testified that you had
14 almost no knowledge of economics at all. As a matter
15 of fact, General OSHIMA, were you not very active in
16 the field of economic cooperation in the joint pursuit
17 of the war?

18 A I do not know exactly what you mean, but with
19 the progress of the war traffic between Germany and
20 Japan was completely suspended, and, as a matter of fact,
21 there was no economic cooperation between the two
22 countries.

24 Q I am speaking of your activities in negotiations
25 relating to economic matters.

A I handled such matters when instructions came

1 from the Government, but because the actual situation
2 was such in which traffic was completely suspended
3 between the two countries, I have no recollections with
4 regard to my activities in this regard because there
5 was nothing to negotiate about.

6 Q At the conference of 2 January 1942 with
7 Ribbentrop, did you not present a memorandum suggesting
8 certain concrete negotiations regarding the mutual use
9 of German and Japanese economic power?

10 A I have no recollection, but I may have done
11 so.

12 Q Well, do you recall presenting a plan providing
13 for a German credit to Japan of one billion yen and a
14 provisional credit of fifty million yen in order to
15 enable Japan to obtain machines, armaments and factory
16 equipment?

17 A I have no recollection and by that I mean that
18 there may have been such. But plans on matters of this
19 kind were entirely prepared and drawn up by the economic
20 section of my embassy and I merely took the matter --
21 took the document when I approached the competent
22 German officials, so I have no exact recollection.

23
24 ACTING PRESIDENT: We will recess for fifteen
25 minutes.

(Whereupon, at 1045, a recess was taken

OSHIMA

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until 1100, after which the proceedings were
resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Tavenner.

4 BY MR. TAVENNER (Continued):

5 Q General OSHIMA, in presenting this plan of
6 credit, did you not act purely on your own initiative
7 and without any authority of your government?

8 A I have no correct recollection, but that is
9 not quite possible.

10 Q Did you learn that Ambassador Ott and Wohltat,
11 on 23 January 1942, questioned your authority to initiate
12 this plan?

13 A Where were Ott and Wohltat at the time? Were
14 they in Japan, or where did they say such a thing?

15 Q They were in Japan and telegraphed the informa-
16 tion through to Germany.

17 A I have no recollection, but I might refresh
18 my memory if the related documents were shown to me.

19 Q Did you ever see the telegram from Ott to
20 Ribbentrop questioning your authority, or did you hear
21 of it through any German sources?

22 A I have neither seen nor heard of it.

23 Q Did not MATSUHIMA, head of the Economic
24 Division, inform Wiehl on 24 January 1942 that you had
25 presented a draft of the economic treaty of assistance

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4 BY MR. TAVENNER (Continued):

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11 on 23 January 1942, questioned your authority to initiate
12 this plan?

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14 they in Japan, or where did they say such a thing?

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16 tion through to Germany.

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18 my memory if the related documents were shown to me.

19 Q Did you ever see the telegram from Ott to
20 Ribbentrop questioning your authority, or did you hear
21 of it through any German sources?

22 A I have neither seen nor heard of it.

23 Q Did not MATSUHIMA, head of the Economic
24 Division, inform Wiehl on 24 January 1942 that you had
25 presented a draft of the economic treaty of assistance

1 without the approval of your government, because you be-
2 lieved that it would unduly delay the credit arrangement
3 if the consent of the Japanese Government would have to
4 be obtained first?

5 A It is a fact that Minister MATSUSHIMA was in
6 charge of economic questions in the Embassy, and was
7 drawing up various plans, but I do not recall the con-
8 tents. But, assuming that this was so, it is quite
9 possible to say that the German side was saying such a
10 thing for the purpose of bargaining --

11 Correction: It is a fact that Minister MATSU-
12 SHIMA, who was in charge of economic affairs in the
13 Embassy, was carrying on negotiations with the German
14 side, but I do not recall the contents of it. Assuming
15 that such a thing did happen, it is quite possible for
16 such statements -- for such matters being brought up in
17 bargaining with the German side, but I cannot give you
18 any definite views on my own part.

19 Q I am asking you this specific question: Did
20 you or did you not present that plan of economic assist-
21 ance without authority from your government being first
22 obtained?
23

24 A I have no recollection, and furthermore there
25 would be no possibility of occasion for such.

Q At a conference on 23 March 1942 did you and

1 Ribbentrop discuss future economic cooperation between
2 the European-African sphere under the leadership of
3 Germany and Italy on the one side, and the East Asia
4 sphere under the leadership of Japan on the other side?

5 A I have no recollection.

6 Q Do you not recall that in your conference you
7 contemplated the establishment of a great economic
8 agreement between the three powers, aimed at establishing
9 advantages and privileges for Japan, Germany and Italy
10 to the exclusion of the United States as much as
11 possible?

12 A I have no recollection.

13 Q Do you recall that at a conference between
14 you and Ribbentrop on 9 May 1942, the position was taken
15 by Ribbentrop that the Tripartite Pact was the starting
16 point for all political and economic discussions and
17 plans for international relations, even after the period
18 of the war?

19 A He may have, but I have no recollection.

20 Q Do you not recall that you enthusiastically
21 concurred in this statement by Ribbentrop?
22

23 A I have no recollection.

24 Q Did you not envisage the waging of war with
25 the United States in the field of economy by Japanese,
German and Italian boycott to be enforced after the

1 shooting war ended?

2 A I have no recollection of that.

3 Q In this conference of May 9, 1942, did you not
4 discuss the facilitation of economic cooperation between
5 the two great economic areas defined in the Tripartite
6 Pact, by the establishment of a strict control of the
7 economy of those nations?

8 A No, I have no recollection.

9 Q Didn't your discussion even extend to the
10 question of how you would control the economy of
11 independent states which were located within the various
12 spheres defined under the Tripartite Pact?

13 A There would be no occasion for discussing such
14 a thing.

15 Q I am not asking you as to whether or not there
16 would be an occasion; I am asking you if you did not
17 discuss those very matters.

18 A In my recollection -- according to my recollec-
19 tion there was no such a discussion.

20 Q Did not your discussion go to the extent that
21 it involved a plan on the part of the Axis Powers to exert
22 influence on the independent states in such a way as to
23 compel regulation of their individual economies?
24

25 A I have no recollection of ever having dis-
cussed such a matter.

1 Q Did not you and Ribbentrop at this conference
2 agree that in so far as the United States and Central
3 and South American countries were concerned a bind-
4 ing arrangement should be made that after the war the
5 resumption and continuation of economic relations
6 should only take place after mutual agreement between
7 Japan, Germany, and Italy?

8 MR. CUNNINGHAM: That is objected to as
9 immaterial and going far beyond the issues involved
10 in this case.

11 MR. TAVENNER: My reply, if the Tribunal
12 please, is that there was no limit to the extent
13 the Tripartite Pact went under its terms and under
14 the construction that was being given it by some of
15 these accused.

16 ACTING PRESIDENT: The objection is overruled.
17 BY MR. TAVENNER:

18 Q Please answer.

19 A I have no recollection. It all appears to
20 be very abstract and pertaining to the future, and I
21 have no recollection of ever having discussed such
22 matters seriously.

23 Q I hand you exhibit 50 in the Japanese text,
24 which is an announcement by the Board of Information
25 of the agreement between Japan and Germany concerning

1 economic cooperation. It wasn't read in evidence.
2 Will you glance at this document and tell me whether
3 you signed the agreement referred to therein in
4 behalf of Japan, and the date you signed it.

5 (Whereupon, the witness examined the
6 document.)

7 A mere glance at that document ought to be
8 sufficient, General OSHIMA.

9 A I recall that there was an economic agree-
10 ment similar to what is referred here. It is also
11 true that all economic agreements signed in Germany
12 were signed on my responsibility.

13 Q Well, did you sign it?

14 A I think I signed it. I did not handle
15 economic negotiations, but I had the responsibility for
16 them. By merely looking at this I don't recall the
17 date.

18 Q Is that the same economic agreement of assist-
19 ance to which you referred in your affidavit as having
20 been concluded in January, 1943?

21 A I think so probably, but I have no definite
22 recollection. As I have stated in my affidavit, I
23 don't recall the contents.
24

25 Q Now, there is nothing said in that announcement
from the Bureau of Information, as shown in exhibit

50, of the existence of any secret terms or agreements.

Do you know whether there was a secret protocol?

1 A I don't think there was any secret agreement
2 attached to an economic agreement.

3 Q Do you not know, as a matter of fact, that
4 there was a secret protocol?

5 A I have no recollection.

6 Q Well, I will see after lunch if I can present
7 it to you to refresh your recollection both as to
8 the fact of such a secret protocol and its contents,
9 and then I may desire to ask you further questions
10 about it.
11

12 After MATSUOKA's return to Japan in April,
13 1941, were you aware that talks were conducted between
14 Japan and the United States?

15 A I received notification for the first time
16 on the 1st of May --

17 THE INTERPRETER: Correction: in the latter
18 part of May.

19 Q That is not an answer to my question. I
20 didn't ask you when you received official notifica-
21 tion; I asked you if you were aware that talks were
22 being conducted.

23 A No, I did not know.

24 Q When did you first learn that?

25 A As I have already replied, the latter part of

1 May.

2 Q Did you not oppose the diplomatic policy of
3 MATSUOKA with regard to the United States?

4 A I did not oppose it.

5 Q Did you not inform MATSUOKA that in your
6 opinion Japan would lose the chance to establish
7 her right for leadership in East Asia if Japan con-
8 cluded the anticipated agreement with the United States?

9 A No, I have not stated anything to him in that
10 manner. I have sent him my opinions.

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1 Q Well, did you send him your opinion in that
2 manner?

3 A No.

4 Q Did you not submit to MATSUOKA two plans that
5 you prepared from the German viewpoint, one of which
6 contemplated the refusal of the American proposal and
7 the other of which would have bound the United States
8 to abandon the convoy patrol plan?

9 A Yes, I did.

10 Q Did you not also remind MATSUOKA that the
11 European war was developing favorably for Germany
12 and Italy and in a few months very important develop-
13 ments were expected?

14 A Yes, I did.

15 Q And then did you not urge MATSUOKA that if
16 at that time Japan should lose the confidence and
17 trust of Germany and Italy it would be very unfortunate
18 for Japan?

19 A I said something to that effect to him but
20 there were some preliminary remarks before that.

21 Q Did you not also suggest to MATSUOKA that
22 his policy was a two-faced diplomacy which would lead
23 Japan to an absolute international isolation during
24 the critical period which may arise after the war?
25

A I did not say that MATSUOKA's policy was a

1 two-faced diplomacy, but I did say that such would be
2 the result if he did undertake to pursue a two-faced
3 diplomacy.

4 Q And you were doing all you could in the
5 presentation of your views to MATSUOKA to discourage
6 and defeat a rapprochement between Japan and the
7 United States, didn't you?

8 A No, that is not so; that is entirely contrary
9 to the facts.

10 Q Well, did you not explain to MATSUOKA your
11 apprehension that should Japan lose this opportunity
12 to expand southward and the possibility of attacking
13 Singapore she would invite the contempt of not only
14 America and England but also Germany and Italy? Didn't
15 you urge that explanation in order to discourage
16 negotiations between Japan and the United States?

17 A I have made no efforts to discourage anything.
18 I informed him of the matters just suggested by you
19 but there were important premises, preliminary remarks,
20 before that.

21 Q Did you not charge that if MATSUOKA persisted
22 in his policy it would mean that Japan had abandoned
23 her great mission to establish a new order in the Great
24 East Asia?
25

A I did not say that the mission would be

1 abandoned if MATSUOKA's diplomacy were continued.
2 The opinion which I sent to him was to secure the
3 neutrality of the United States and to seek a
4 rapprochement with that country.

5 Q Did you not then call upon MATSUOKA to
6 establish the idea of the Tri-Partite Pact by upholding
7 the principle that Japan is to facilitate the battle
8 of Germany and Italy against Britain?

9 A This was Japan's natural obligations under
10 the Tri-Partite Pact, and for this purpose it was
11 necessary to have the United States remain neutral
12 and to do this was Japan's obligations under the
13 terms of the pact. As an ambassador in Germany I
14 was instructed to act with the Tri-Partite Pact as
15 the standard and it was therefore naturally my obliga-
16 tion to see to it that Japan did not violate that
17 obligation.

18 Q In other words, you undertook to control the
19 diplomacy of the Japanese Government by your communica-
20 tions to MATSUOKA, didn't you?

21 A No, not so.

22 Q Now, in the early part of May 1941 -- just
23 before I ask you that question I want to ask you one
24 more relating to the matters I just discussed.
25

With regard to these matters that I have asked

1 you about did you not state to MATSUOKA, "I beg you
2 to take these circumstances under consideration"?

3 A I sent the wire to Mr. MATSUOKA with the
4 intention that he would give it his consideration.

5 MR. TAVENNER: I respectfully refer the
6 Tribunal to exhibit 1075, pages 9918 to 9932 of the
7 transcript.

8 Q Now, is it not true that early in May 1941
9 MATSUOKA contemplated a trip to the United States
10 regarding these matters we have discussed?

11 A I do not know.

12 Q I hand you prosecution document 1383,
13 telegram 480, purporting to be a telegram of May 4,
14 1941 from you to the Foreign Minister marked "Secret."
15 Will you please examine it and state whether or not
16 it was sent by you or under your direction?

17 A Of course, this message was sent out from the
18 Japanese Embassy in Berlin and naturally, therefore,
19 it would come under my direction, but this is purely
20 rumor.

21 MR. TAVENNER: I offer in evidence prosecution
22 exhibit 1383.

23 ACTING PRESIDENT: Prosecution document you
24 mean, do you not? It is admitted in evidence.

25 CLERK OF THE COURT: Prosecution document

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1383F(1) will receive exhibit No. 3518.

(Whereupon, the document above
referred to was marked prosecution exhibit
No. 3518 and received in evidence.)

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1 MR. TAVENNER: I will read the body of the
2 exhibit:

3 "A rumor that Foreign Minister MATSUOKA is
4 planning to go to the U.S.A. was lately in circula-
5 tion here and Domei, on 30 April, carried the talk
6 of Spokesman ISHII of the Information Bureau to the
7 effect that Germany and Italy should be asked whether
8 they would object to the Foreign Minister's trip to
9 the U.S. and that the U.S. is a neutral nation
10 concerning the European War and is not in hostility
11 with Germany and Italy. This gave the people such
12 an impression that the said rumor is well-grounded.
13 It is now common sense that the U.S.A. has become a
14 completely hostile country against Germany and
15 Italy by giving aids to Britain in such a way as
16 regarded to be near her actual participation in war.

17 "At this time when the German papers are
18 severely attacking Britain as well as the U.S.A.,
19 the German Government has made no expression of her
20 will outwardly on this rumor and the papers are
21 keeping silence. It can be judged, however, that
22 they evidently have great concern inwardly. I ask
23 you, therefore, to inform me of the truth by return
24 cable."
25

Q Who was your military attache in May, 1941?

1 A I think it was Lieutenant General BANZAI.

2 Q Did you discuss with him your objection to
3 MATSUOKA's proposed visit to the United States?

4 A I have not objected to the proposed visit.

5 Q Well, did you discuss the question of the
6 visit with BANZAI?

7 A I have no recollection.

8 Q Did you convey any information to your
9 military attache such as would lead him to the con-
10 clusion that there was a possibility of your resig-
11 nation as Ambassador?

12 A Absolutely not.

13 Q I hand you prosecution document 1383B(9)
14 (handing). What is it?

15 A This is a telegram sent by the military
16 attache to the General Staff Office. I have no
17 knowledge of this whatsoever, nor is there anything
18 intimated here with regard to my intentions of re-
19 signing. The military attache on his own enter-
20 tained a feeling whether such a thing would not come
21 to pass. It was something that I knew nothing about.

22 Q That is, if MATSUOKA took his proposed trip
23 to the United States.

24 A No, not so. This was written by BANZAI;
25 and for what reason and with what meaning he wrote,

I do not know.

1 Q Does that document bear the seal of the
2 Foreign Office in Japan?

3 A No. This was something with which the
4 Foreign Office was not connected at all.

5 Q Is it initialed in ink by Vice-Minister
6 OHASHI of the Foreign Office?

7 A This appears to be a document sent by the
8 Army to the Foreign Office for reference. This
9 document itself is not of the form which normally
10 and originally is that of the Foreign Office.

11 Q But it shows by the information on it that
12 it was from the Foreign Office, does it not?

13 A No. This is an army telegram.

14 Q I asked you whether or not it was initialed
15 in ink by OHASHI.

16 A I do not see it. Well, there is a Foreign
17 Office seal on this document, but this is an army
18 telegram, and I think that it was referred by the
19 army to the Foreign Office for reference. It says
20 "Vice-minister" here, and it may be Mr. OHASHI saw
21 the telegram, but I cannot say.

22 Q Whose first name appears after that state-
23 ment?

24 A No, no one's name is written here. No, I
25

1 can't tell. I can't say.

2 MR. TAVENNER: I offer the document in
3 evidence.

4 MR. CUNNINGHAM: I object for the reason
5 that the document is not properly identified and is
6 not binding upon this defendant, this accused.

7 ACTING PRESIDENT: As I understand it, he
8 has testified that this comes from his office in
9 Berlin.

10 MR. CUNNINGHAM: It is not my understanding,
11 your Honor. My understanding is that it is a tele-
12 gram from BANZAI, the military attache to the
13 General Staff. It is no responsibility of the
14 accused.

15 ACTING PRESIDENT: Mr. Tavenner.

16 MR. TAVENNER: I suppose, if the Tribunal
17 please, that the identification would have to rest
18 upon the theory, as previously shown by the witnesses
19 for this accused, that the military attache was re-
20 quired under his duties to discuss matters of policy
21 with the Ambassador and communicate those views to
22 the General Staff.

23 MR. CUNNINGHAM: It is suggested, your
24 Honor, that the record does not bear out that last
25 statement. That is not a true statement of the

1 situation, that the matters of military were separ-
2 ate from the matters of political in the Embassy
3 in Berlin.

4 MR. TAVENNER: There is no military question
5 involved in the matter we are now discussing, and it
6 would seem to me to be a question of whether or not
7 this witness is bound by the acts of the military
8 attache in the light of General KAWABE's statement as
9 to the duty of a military attache.

10 ACTING PRESIDENT: By a majority, the
11 objections are sustained and the document is rejected.

12 We will now adjourn until one-thirty.

13 (Whereupon, at 1200, a recess
14 was taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: With the Tribunal's per-
mission, the accused TOGO will be absent from the court-
room the whole of the afternoon session conferring with
his counsel.

Mr. Tavenner.

- - -

HIROSHI OSHIMA, an accused, resumed the
stand and testified through Japanese interpreters
as follows:

CROSS-EXAMINATION

BY MR. TAVENNER (Continued)

MR. TAVENNER: Mr. Marshal, will you hand to
the witness IPS document 1383F (2)?

(Whereupon, a document was handed to
the witness.)

Q Is that a reply from the Foreign Minister to
your wire of May 4 regarding MATSUOKA's trip to the
United States? From Foreign Minister MATSUOKA to you
as ambassador?

A Yes, this is.

1 MR. TAVENNER: I offer this document in evidence.

2 ACTING PRESIDENT: It may be received in evi-
3 dence.

4 CLERK OF THE COURT: Prosecution document 1383F
5 (2) will receive exhibit No. 3519.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution's exhibit
8 No. 3519 and received in evidence.)

9 MR. TAVENNER: I will read exhibit 3519:

10 "Re: Your telegram No. 480.

11 "Concerning this matter, I have received several
12 inquiries since some time ago from the German and
13 Italian Ambassadors in Japan. Though the United States
14 might presumably want me to visit America, I have no
15 such intention. I replied to both Ambassadors to this
16 effect and had them cable to that effect to their govern-
17 ments respectively.

18 "Furthermore, when I was asked questions by
19 Japanese pressmen at Kyoto on the 4th regarding my trip
20 to Ise Shrine, I answered that, since I was very well
21 acquainted with matters concerning the United States,
22 there was no necessity for me to visit there, but on the
23 contrary, I would rather have President Roosevelt and
24 Secretary Hull visit Japan, to rectify their cognizance
25 of Japan. This is reported to you for your information.

1 "Please let both attaches know about this
2 matter."

3 Q General OSHIMA, did you let Attache BANZAI
4 know about the message from MATSUOKA?

5 A I have no recollection but I think I naturally
6 informed him of it.

7 Q When you informed him of it didn't you discuss
8 with him the reason for the message from MATSUOKA to
9 him, and did you not then learn that BANZAI had sent
10 through a message to Japan regarding this matter?

11 A I did not. The reply from the Foreign Office
12 was to my telegram and I presume that I showed it to
13 the two attaches.

14 Q But that does not answer my question. Did you
15 not discuss with BANZAI --

16 A No, I did not talk with him about it.

17 Q Before lunch I told you that I would present
18 to you a copy of the secret protocol in connection with
19 the Economic Agreement for assistance between Japan and
20 Germany. I now hand you IPS document 889 consisting
21 of a German draft and Italian draft -- correction, please:
22 consisting of the text in both German and Japanese.

23 (Whereupon, a document was handed
24 to the witness.)

25 Q (Continuing) Are those documents marked "top

secret"?

1 A No, there is no seal but it is printed on
2 there.

3 Q Do you recognize those papers as being the
4 copy of the secret protocol?
5

6 A Will you wait just a moment? Yes, I do.

7 MR. TAVENNER: I desire to offer in evidence
8 the Japanese copy handed to the witness.

9 MR. CUNNINGHAM: Object to the introduction
10 of this document for the reason that it isn't properly
11 identified, is not shown to have been known to this
12 witness, and the witness, therefore, is not bound there-
13 by.

14 ACTING PRESIDENT: The witness just admitted
15 it as an authentic copy, did he not?

16 MR. TAVENNER: Yes.

17 ACTING PRESIDENT: Objection overruled. The
18 document will be admitted.

19 CLERK OF THE COURT: Prosecution document 889
20 will receive exhibit No. 3520.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 3520 and received in evidence.)
24

25 MR. TAVENNER: I will read in evidence only
portions of this supplementary protocol.

secret"?

1 A No, there is no seal but it is printed on
2 there.

3 Q Do you recognize those papers as being the
4 copy of the secret protocol?

5 A Will you wait just a moment? Yes, I do.

6 MR. TAVENNER: I desire to offer in evidence
7 the Japanese copy handed to the witness.

8 MR. CUNNINGHAM: Object to the introduction
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10 identified, is not shown to have been known to this
11 witness, and the witness, therefore, is not bound there-
12 by.
13

14 ACTING PRESIDENT: The witness just admitted
15 it as an authentic copy, did he not?

16 MR. TAVENNER: Yes.

17 ACTING PRESIDENT: Objection overruled. The
18 document will be admitted.

19 CLERK OF THE COURT: Prosecution document 889
20 will receive exhibit No. 3520.

21 (Whereupon, the document above re-
22 ferred to was marked prosecution's exhibit
23 No. 3520 and received in evidence.)

24 MR. TAVENNER: I will read in evidence only
25 portions of this supplementary protocol.

1 ACTING PRESIDENT: Can we get a copy of the
English translation?

2 MR. TAVENNER: We have endeavored to have
3 them made but they haven't arrived in the courtroom yet.
4 What I have is a typewritten copy. I have one extra
5 copy which I would be very glad to hand to the
6 President of the Tribunal.
7

8 (Whereupon, a document was handed
9 to the Acting President.)

10 MR. CUNNINGHAM: If your Honor please, I would
11 like to object to this procedure for the reason we
12 don't have a copy, we can't follow the translation
13 and can't even determine whether or not the translation
14 is correct.

15 ACTING PRESIDENT: I think it would be better
16 if we all had copies when this is read.

17 MR. TAVENNER: I am informed that the processed
18 copies will be here this afternoon, and I will gladly
19 postpone reading the document until they arrive.
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1 Q General OSHIMA, did you discuss plans with
2 Ribbentrop on 23 February 1941 for close cooperation
3 in all spheres of activity in carrying on the war?

4 A I conferred with him on the 23d, but whether
5 or not I discussed such a question as just suggested
6 by you I do not know, unless, perhaps, you give me some
7 more concrete details of the discussion.

8 Q Well, were not plans discussed particularly
9 with regard to news services and newspapers?

10 A Yes, that came up for discussion.

11 Q And was it not suggested by Ribbentrop that
12 the cooperation should be in the same manner as was
13 already being done in Italy, Rumania, Hungary, Slovakia
14 and Bulgaria?

15 A We discussed the matter but I do not have any
16 recollection whether he said that.

17 Q Well, did you not state that you intended to
18 create a plan for more intensive Japanese propaganda?

19 A I do not recall that either. My reason for so
20 stating is that such matters were brought up for dis-
21 cussion, but because they were not carried out they
22 do not remain in my memory.

23 Q Well, you do recall, do you not, that you
24 set up a newspaper division within the embassy and
25 Minister SAKUMA was brought over from Japan to take

charge of it?

1 A It is a fact that Minister SAKUMA came to the
2 Japanese Embassy as chief of the press division, but
3 he did not come for that purpose.
4

5 Q Well, that was what you used him for, wasn't
6 it?

7 A He did that as a part of his work.

8 Q And the result of your propaganda work in
9 the embassy in Berlin was distributed and made use of
10 in Japan also, was it not?

11 A It has never been sent to Japan.

12 Q Well, what was the source of the information
13 that you used in this propaganda?

14 A Publicity activities were actually not carried
15 out. We only gave general information which came from
16 Japan to the news agencies in Germany.

17 Q Well, toward the last of March, 1941, did you
18 discuss a general plan of extension in Japan of the
19 propaganda idea with Ambassador Ott who had been called
20 back to Germany during the MATSUOKA conferences?

21 A Are you referring to importing the German
22 method of propaganda into Japan?

23 Q Let us first answer the question generally.
24 Did you discuss propaganda in Japan with General Ott?
25

 A I have no recollection. That question may

1 have been broached because he came back to Germany,
2 but I have no recollection of any conversation on
3 that.

4 Q Reference is made to exhibit 571, page 6,456
5 of the transcript. In your discussions with Ambassa-
6 dor Ott did you not approve a plan drafted by the
7 German Foreign Ministry which in part provided for
8 the building of a demonstration hall in Tokyo?

9 A I have no recollection. However, I should
10 like to state that because there was a project under
11 discussion with reference to the erection of a
12 Japan-German Association building in Japan, and the
13 subject may have been brought up in connection with
14 that subject. But I have no recollection of hearing
15 anything about what you call a demonstration hall.

16 Q Was not the purpose of intensification of
17 propoganda to improve the minds of the Japanese
18 people for cooperation with Germany?

19 A It was to foster good will between Germany
20 and Japan.

21 Q Did you have a conversation with Ribbentrop
22 shortly prior to 4 January 1942 regarding the question
23 of cooperation between the Axis Powers and Japan in the
24 field of propoganda directed especially toward India
25 and the Arabian countries?

1 A I recall that some discussion came up in
2 connection with India and other countries, but none
3 of the things which we discussed were ever carried
4 out. I have no recollection of the contents.

5 Q Was not a joint military commission set up
6 in December 1941 to decide matters of tactics and
7 operations?

8 A In 1941 did you say?

9 Q Yes.

10 A I did not participate in the establishment
11 of the military commission, and as far as I know I
12 have heard nothing about this commission.

13 Q Possibly you may recall--

14 THE INTERPRETER: Just a moment. Correction
15 as to the latter part of the witness' reply: As far as
16 I know I have not heard that it was held.

17 A (Continuing) I should like to inquire again,
18 are you referring to the military commission?

19 Q I am referring to the commission of which
20 Admirals NOMURA and YOKOI and Lieutenant General BANZAI
21 were the Japanese members, and Field Marshal Kaitel
22 and Admiral Doenitz the German representatives.

23 A I have never heard of it. And I should like
24 to add that this was not a military commission because
25 the Italian representatives are not mentioned in

connection with it.

1
2 Q Well, if not a commission under the Tripartite
3 Pact was it, nevertheless, a committee or commission
4 which did act upon matters of tactics and operations?

5 A Such persons often met, but this was something
6 entirely outside of the scope of my duties, and they
7 had no responsibility of reporting to me. This group
8 should not be called a military commission. They merely
9 undertook discussion of routine matters between the
10 Japanese military and naval attaches and the military
11 and naval authorities on the German side.

12 Q Then there was the military agreement between
13 Japan, Germany, and Italy of 18 January 1942, dividing the
14 world into two zones for military and naval operations,
15 was there not?

16 A This was a purely military agreement, and I
17 as a civil official had nothing to do with it, and
18 therefore I do not know anything of its contents.

19 Q Is it not true that a common code was arranged
20 for the use of the Japanese and German navies?

21 A Well, after the agreement was concluded I
22 heard informally that methods of communications had been
23 decided upon, but I did not receive this information
24 from any responsible source or official.

25 Q In a conference between you and Hitler on--

1 3 January 1942 were you informed of the German in-
2 vention of a new armor-piercing hollow grenade, and
3 was it not offered by Hitler to Japan?

4 A That is a little different, but there was
5 some talk of a matter of a similar nature. That talk
6 was that a new shell which was capable of piercing a
7 tank had been created, and that this new shell was
8 to be presented to Japan. I talked of this matter
9 to the military attache, and all negotiations there-
10 after with the German Army were conducted by the
11 military attache, and therefore I am unfamiliar with
12 the details. But I did hear that this shell was
13 given to Japan.

14 Q Did Hitler stress to you the importance of
15 exchange of military discoveries between Japan and
16 Germany?

17 A I have no recollection, but I think that
18 he entertained such ideas.

19 Q Well, did you not enthusiastically agree
20 with this idea, and did you not state that the
21 Japanese Army was skilled in landing operations,
22 having carried them out for fifty years, and offer
23 to place at the disposal of the German Army Japanese
24 officers who were experts on landing operations?
25

A I have no recollection, but inasmuch as

1 the carrying out of joint operations had been de-
2 cided upon I presume as a matter of course I mentioned
3 something to that effect.

4 Q Did you not also express the opinion that
5 the Japanese Army would seek to occupy Burma and you
6 considered it important in this connection that
7 Germany and Japan make a joint declaration against
8 India?

9 A Did you say a joint declaration, a joint
10 statement?

11 Q Yes.

12 A I have no recollection.

13 Q Did you not say that once English bases
14 in India were eliminated Japan could easily send
15 convoys to the Persian Gulf?

16 A I have no recollection. By saying so I
17 mean that whenever I met Hitler I was asked by the
18 army -- military and naval attaches were unable to
19 see him -- to say such and such a thing to him and
20 was requested by these two attaches to bring up cer-
21 tain matters before the Fuehrer; and therefore I may
22 have said such a thing to Hitler, but at this date
23 I do not have any exact recollection.

24 Q And did you not at the conclusion of the
25 conference express the hope that Germany and Japan

would enter into close cooperation after the war?

1 A I have no recollection, but I probably did
2 so. I think it was but natural for me to make such a
3 statement.
4

5 Q Do you recall Hitler stating to you that
6 this was probably the first time in history that two
7 so powerful military powers that were situated far
8 apart from each other were engaged in battle jointly?

9 A Well, this was something that was talked
10 about five or six years ago. It was not an important
11 matter, and he may have said so, but I do not recall.
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1 Q Well, in this connection did he not state that
2 this situation created the possibility, through exact
3 timing of operations, of producing a smoke screen over
4 military activity which must have a considerable reaction
5 on the enemy, as the latter would be forced as a result
6 to keep shifting his main effort, and in this way to
7 scatter his forces hopelessly?

8 MR. CUNNINGHAM: I ask that the previous ques-
9 tion and answer be repeated. There is a misinterpreta-
10 tion which goes to the heart of the question. It is
11 interpreted as though OSHIMA said what was alleged,
12 and the question was concerning what Hitler said.

13 MR. TAVENNER: I, of course, meant Hitler.
14 That ought to clear it up.

15 A I have no recollection.

16 Q Did you not tell Ribbentrop on 6 March 1943
17 that in the near future Japanese officers, clothed as
18 couriers and embassy secretaries, would come to Berlin
19 from Tokyo to deliver particulars concerning the mili-
20 tary situation and the Japanese forces and plans?

21 A I do not recall whether I said this or not,
22 but such persons did come.

23 Q And did they deliver the plans and particulars
24 to the German Government?

25 A They didn't bring any plans with regard to

1 future operations; and, furthermore, this was a matter
2 outside of my province of duties. What I heard of was
3 the economic conditions in Japan, and what I felt was
4 necessary was reported to the German Government.
5 Military matters were conveyed by the Japanese military
6 and naval attaches to the German army and navy authori-
7 ties. But with regard to secret matters or with regard
8 to plans for the future, from what I heard later,
9 nothing of the kind was brought up by the Japanese
10 attaches with the German side.

11 Q In your conference with Hitler on 3 January
12 1942, did he discuss with you the naval war situation
13 in the Atlantic?

14 A There were no occasions for a discussion. But
15 at this date I do not recollect whether I heard anything
16 of the kind.

17 Q And did he not state that the most important
18 task was to get the submarine war going at full blast?

19 A Do you mean the German side?

20 Q Both the German and the Japanese side.

21 A I have no recollection that anything of that
22 kind was said in 1942.

23 Q Well, did he confine it, then, to either the
24 German or the Japanese side getting the submarine war
25 into full blast?

1 A No, not so. But later, in 1943, he advised
2 whether or not Japan wouldn't do that also, participate
3 in such warfare also; but I never heard of anything
4 like that brought up in 1942.

5 Q Do you not recall that on January 3, 1942, he
6 said to you that merchant vessels were being sunk by
7 Germany without warning in order that as many as pos-
8 sible of the crew should perish?

9 A I recall that Hitler said something about
10 annihilating crews of merchant vessels. But that was
11 what Germany alone intended to do and was -- But that
12 was a matter which Germany alone was thinking about, and
13 was not recommended to Japan.

14 Q And did not Hitler express the idea also that
15 this course would cause America to have difficulty in
16 recruiting crews because of the time required to train
17 seafaring personnel?

18 A I recall him saying something to the effect
19 that replacements would become difficult.
20

21 Q And did not Hitler also say that he had
22 ordered his submarines to surface after torpedoing and
23 shooting up the lifeboats?

24 A I have no recollection of his saying that.

25 Q General OSHIMA, did you not concur in these
statements of Hitler, and did you not say that the

Japanese were forced to follow these methods?

1 A I did not say anything of the kind.

2 Q Did you not have a conference with Ribbentrop
3 on 9 July 1942, at which he urged Japan to send more
4 submarines as well as cruisers and other large units
5 to the Indian Ocean to intercept supplies for the
6 British in Egypt?
7

8 A I have no recollection. That is to say, in
9 Germany Ribbentrop was in a position to attend military
10 conferences. But on the Japanese side, such matters
11 were entirely outside of my scope of duties and author-
12 ity. If, however, assuming that he said so, I would
13 naturally have transmitted such matters to the naval
14 attache. At this date I have no recollection.

15 Q Maybe this will refresh your recollection:

16 Lo you not recall that you advised Ribbentrop
17 that the English and American reinforcements to Egypt
18 were being impeded by the activity of Japanese sub-
19 marines?
20

21 A I have no recollection on that either. If
22 assuming that I said so, then the naval attache for
23 Japan may have asked me to convey the matter. I say
24 this because, being a civil official, I was not receiv-
25 ing any official report as to the location of Japanese
submarines.

1 Q Did you not agree with Ribbentrop that you
2 would pass these suggestions on to Tokyo?

3 A I may have done so, but the channel through
4 which such reports were transmitted was from the
5 Japanese naval attache to the naval authorities in
6 Tokyo.

7 Q Regardless of the channel that was used, did
8 you, in passing on these suggestions, recommend their
9 acceptance?

10 A No, that is not so. Such matters were
11 entirely handled by the naval attache. I merely
12 transmitted information to him. To explain further,
13 even in Tokyo the Foreign Office did not in any manner
14 handle such matters.

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Q Were you informed that prior to February 26, 1943, Admiral NOMURA stated to German officials that the Japanese Navy was planning to use submarines against merchant shipping, and that he had asked you and Foreign Minister Ribbentrop to request that two German submarines be put at Japan's disposal?

A I heard that the Japanese Navy desired the transfer of the German submarines to Japan, but I never heard anything about torpedoing merchant shipping. I think the Germans were already torpedoing merchant ships at the time.

Q I think possibly you misunderstood my question. Were you informed that Admiral NOMURA stated to German officials that the Japanese Navy was planning to use submarines against merchant shipping and wanted two submarines from Germany for that purpose?

A Then there seems to be two questions. Does the first part of your question mean using submarines as cargo vessels; and the other question that Japan wished to have two German submarines?

Q It relates to the use of German submarines in the sinking of merchant shipping and also Japan's request for two submarines to be placed at Japan's disposal.

A I heard of the desire to have two submarines,

1 but I heard nothing about submarine warfare.

2 Q You heard nothing about the use of the
3 submarines against merchant shipping, is that what
4 I understand?

5 A I never heard of it, but I presume that both
6 Japan and the United States were already doing that.

7 Q Were you not informed that Hitler favored the
8 idea of releasing one submarine, but that he would not
9 decide the matter until he was officially asked to do so?

10 A No, I heard nothing about it.

11 Q Well, now, on the 6th of March, 1943, at a
12 conference with Ribbentrop did you not state that the
13 Japanese Government intended to increase the submarine
14 shipping attacks and would immediately set about
15 making the necessary preparations?

16 A I may have, but if I did so I was conveying
17 the intentions of the Japanese Navy.

18 Q And did you not mention the fact that Japanese
19 submarines were at that time not suited for shipping
20 attacks and that the Navy had to revamp its construction
21 program?

22 A I may have and if I did I was conveying the
23 message of the naval authorities. I have no definite
24 recollection as to that. Being an ambassador stationed
25 abroad, I knew nothing about submarine construction and

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1 so, if I did say anything of the kind, I was conveying
2 the message of the Japanese naval authorities.
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1 Q Well, you recall this, do you not, that you
2 stated that the Japanese Navy would be grateful if
3 it could obtain two submarines from the German
4 Navy?

5 IER. CUNNINGHAM: I object to further dis-
6 cussion of this question. It seems like an utter
7 waste of time to spend so much time concerning two
8 submarines in a period after the war had begun, or
9 the diplomatic conversations concerning them. It
10 certainly has no materiality or relevancy to the
11 main issue involved in this case -- plans and
12 preparations for a campaign.

13 ACTING PRESIDENT: It was not only plans
14 and preparations, but the waging of an aggressive
15 war. Objection overruled.

16 A I said that the Japanese Navy desired the
17 transfer of two German submarines.

18 Q And, did not Ribbentrop agree with you and
19 state that he would speak to Admiral Doenitz about
20 it?

21 A I do not know what Ribbentrop actually said --
22 told Doenitz, if he did, because after that the
23 matter was entirely transferred into the hands of
24 the Naval Attache, who conducted his negotiations
25 with the German Navy. I presume Ribbentrop may have

1 said that, but I do not know.

2 Q Well, let's see if a good many things didn't
3 occur before the matter was turned over to Admiral
4 NOMURA.

5 Do you not recall that on the same day,
6 6 March 1943, Ribbentrop again summoned you to a
7 conference and explained to you that the German
8 Government, after consultation with the Navy, was
9 prepared to place one or two U-boats at the disposal
10 of the Japanese Navy?

11 A Ribbentrop had already once before -- quite
12 a while before already said that Germany was prepared
13 to give Japan one or two submarines, but I have no
14 recollection whether he repeated that again on this
15 occasion you are referring to.

16 Q Well, is it not a fact that at this time he
17 further stated to you that the German Government
18 offered these submarines on condition that the Japa-
19 nese Navy tackle immediately submarine construction
20 on a large scale and carry mass production into effect?
21

22 A I do not now recall what Ribbentrop later
23 said, but in connection with the transfer of the
24 German submarines to Japan, no conditions were
25 attached. Ribbentrop expressed the German desire
that Japan utilize submarines for the purpose of

1 destroying lines of communications and also the hope
2 that Japan would expand the construction of sub-
3 marines, but he did not attach any conditions with
4 the presentation of the U-boats.

5 Q At about that time, there was a distinct
6 change in policy in Japanese naval warfare, was there
7 not, which placed emphasis upon the destruction of
8 tonnage or, in other words, tonnage warfare?

9 A That was something with which the ambassador
10 had no connections whatsoever and was never informed.

11 ACTING PRESIDENT: We will recess for fifteen
12 minutes.

13 (Whereupon, at 1445, a recess was
14 taken until 1500, after which the proceed-
15 ings were resumed as follows:)

16 - - -

17 MARSHAL OF THE COURT: The International
18 Military Tribunal for the Far East is now resumed.

19 ACTING PRESIDENT: Captain Kraft.

20 LANGUAGE ARBITER (Captain Kraft): If the
21 Tribunal please, the following language correction is
22 submitted:
23

24 Reference exhibit No. 179-I, paragraph 2,
25 record page 1938, lines 11 to 13: Delete "The army
is so strongly determined in its positive policy

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1 towards Manchuria that orders given by the central
2 authorities may not be carried out" and substitute
3 "The determination of the military circles towards
4 Manchuria is so strong that it is feared that orders
5 given by the central authorities may not be thorough-
6 ly understood."

7 ACTING PRESIDENT: Mr. Tavenner.

8 MR. TAVENNER: If the Tribunal please, I will
9 ask the clerk to distribute now the copies of exhibit
10 3520. I will read from this exhibit certain portions,
11 as follows:

12 "Article 2. For carrying through Article 2 of
13 the Agreement, Germany and Japan will guarantee mutually
14 for three years means of payment to the amount of 586
15 million Reichsmarks and of a thousand million yen.

16 "Article 3. Each of the contracting parties
17 will in its economic activities in the economic sphere
18 of the other party respect the guidance of the other.

19 "Article 4. The contracting parties will, in
20 the building up of their interior economic sphere and
21 in economic exchange between the economic spheres of
22 both sides, respect with the utmost goodwill the needs
23 of the other party in any case in preference to the
24 needs of lands outside the two economic spheres of the
25 contracting parties. In the same way the contracting

parties will treat goods from the other contracting

1 party's economic sphere, as far as possible more favor-
2 ably compared with goods from lands outside the two
3 economic spheres.

4 "Article 7. The contracting parties will, in
5 the territories militarily occupied by them, grant
6 the protection to those nationals and firms of the
7 other party which have hitherto engaged in international
8 trade that flows from the spirit of the Tripartite
9 Pact between Germany, Italy, and Japan of 27 September
10 1940 corresponding to the 27th day of the ninth month
11 of the fifteenth year of the Showa Era, will accord
12 preferential protection over the nationals and firms of
13 countries outside the two economic spheres.

14 "With regard to detailed agreements after the
15 end of this war the contracting parties are to consult
16 each other.

17 "Article 8. At the end of this war the contract-
18 ing parties will resume economic relations with such
19 states as were at war with them or which had broken
20 off diplomatic relations, only after mutual consulta-
21 tions.

22 "Article 9. The contracting parties will take
23 the foregoing principles into consideration in their
24 treaty agreements with each other as well as with the
25 remaining independent states of the economic spheres

1 and in this way so far as possible work toward having
2 these principles respected by the other independent
3 states in their economic spheres.

4 "Should one of the two contracting parties
5 reach treaty accords with independent states of the
6 other economic spheres, it should consult in advance
7 with the other party about it.

8 "Article 11. This protocol has the force of an
9 inseparable constituent part of the treaty between
10 Germany and Japan on economic cooperation. It shall,
11 however, be kept secret."

12 General OSHIMA, that is the secret protocol to
13 the agreement between Germany and Japan concerning econom-
14 ic cooperation, is it not?

15 A That is what I think, but as I have told you
16 before, I have no sure recollection concerning this.

17 Q Near the top of page 36 of your affidavit you
18 state that Germany first officially requested Japanese
19 participation in the war against Russia in the summer
20 of 1943. Was it not in the summer of 1942?

21 A I think the official representation from
22 Germany on this matter and the last time that Japan
23 officially denied this request was in 1943 -- in the
24 summer of 1943.

25 MR. CUNNINGHAM: I would suggest the question

was a misquotation of the affidavit.

1 MR. TAVENNER: The affidavit speaks for itself.
2 I am referring to the last line in the top paragraph
3 on page 36.

4 MR. CUNNINGHAM: The point was, your Honor,
5 that the discussion starts on page 35, and the conno-
6 tation of the quotation is incorrect. If you start
7 at No. 2 on page 35 and carry it down to the bottom
8 of the paragraph on page 36, you get the full sense and
9 not an isolated sentence which carries a different mean-
10 ing from what the paragraph really means.

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1 ACTING PRESIDENT: I do not see any mis-
understanding.

2 BY MR. TAVENNER:

3 Q Your affidavit plainly states that the offi-
4 cial request, you thought, was in the summer of 1943.
5 I am asking you if that is not a mistake and that it was
6 actually in the summer of 1942.

7 MR. CUNNINGHAM: I must object for the reason
8 that that is not a proper quotation of the affidavit.
9 You get an entirely different question.

10 ACTING PRESIDENT: As I understand the affi-
11 davit, it says that this official request was last made
12 in 1943. As I understood the prosecutor's question:
13 Did you not make a mistake and mean in 1942 when the last
14 request was made?
15

16 MR. TAVENNER: I think I can clear it up by
17 asking a very simple question in another way.

18 Q When was the first official request made for
19 Japanese participation in the Russo-German War?

20 A Only one official request was made. At that
21 time the request was made in the name of the government.

22 Q And was not that official request made in the
23 summer of 1942, and not in the summer of 1943 as stated
24 by you in your affidavit?

25 A According to my recollection, I think it was

the summer of 1943.

1 Q Well, let me read to you your answer on this
2 matter in your interrogation by Mr. Hyde on 5 March
3 1946, which is as follows:

4 "In the summer of 1942, Germany officially
5 requested Japan to enter into the Soviet War."

6 Does this not refresh your memory as to the
7 correct time?

8 A According to my recollection, I still think
9 that 1943 is correct.

10 Q Were you not in favor of a Japanese attack on
11 Russia prior to the summer of 1942?

12 A I never once expressed an opinion in favor of
13 such an act.

14 MR. TAVENNER: I am sorry; will you repeat
15 the answer, please?

16 (Whereupon, the last answer of the
17 witness was read by the official court reporter.)

18 Q I asked you if you were in favor of a Japanese
19 attack on Russia prior to the summer of 1942.

20 A No, I was not. Several times I did convey
21 German desires in this regard, previously.

22 Q Well, prior to the summer of 1942, which may
23 have been the time of the making of the official request,
24 did you not have numerous conferences with various German
25

officials regarding the progress of the war against
1 Russia?

2 A Regarding the progress of the war against
3 Russia, I gained my information through two channels;
4 first, the army from its own standpoint gained informa-
5 tion from the German Army, and secondly, I gained my
6 information from talks with Ribbentrop regarding the
7 German-Soviet War. Only once, I believe it was either
8 toward the end of July or the beginning of August 1942,
9 when -- 1941, when I asked Ribbentrop concerning the
10 progress of the war against Russia, he called Marshal
11 Keitel in and had him explain the war situation.
12

13 Q Well, did you speak to any other German
14 officials about the progress of the war in Russia,
15 other than Ribbentrop and Keitel? And by "officials"
16 I mean civilian as well as military officials.

17 A Of course, I did hear secondhand from the
18 Military Attache what he was able to hear from the
19 German Army, but I myself personally never heard any-
20 thing from the German Army except from Keitel.
21

22 Q That was not an answer at all to my question.
23 Did you discuss the progress of the German-Russian
24 War with any civilian officials?

25 A By talks do you mean whether I asked him re-
garding the progress of the German-Soviet War?

1 Q I mean whether or not you had a conference
2 with them in which the progress of the war was discussed.

3 A I did ask, from time to time, regarding the
4 progress of the war, but there was no need to carry on
5 discussions regarding any such matter, and I myself have
6 no recollection of ever having conducted discussions with
7 Ribbentrop on that point -- with persons other than
8 Ribbentrop on that point.

9 Q As a matter of fact, shortly prior to 17 Novem-
10 ber 1941, did you not have a conference with Erdsmandorf
11 relating to the war against Russia?

12 A As I have written in my affidavit, Erdsmandorf
13 was head of the Japanese section of the Foreign Office
14 -- was head of the Japanese section, and there is never
15 any occasion on which an ambassador would talk with a
16 section chief.

17 MR. TAVENNER: General OSHIMA, I will have to
18 ask the Tribunal to direct you to reply to my questions,
19 rather than going off on some explanation which has
20 nothing to do with my question.
21

22 ACTING PRESIDENT: The witness will confine
23 his answers to the questions asked.

24 A I have never asked him anything in regard to
25 that point. It must be a mistake in his memory.

Q I did not ask you if you asked him anything;

1 I asked you if you had a conference with him in which
2 the progress of the Russian War was discussed or men-
3 tioned.

4 A I may have had informal conversations with
5 him, but I have never officially discussed that matter
6 with him.

7 Q Then, all this time you knew that you had
8 conferred with him, but you had not had an official
9 conference?

10 A I presume that he gathered such information
11 by assembling ---

12 Correction: I assume that he obtained such
13 information from conversations held at social gatherings.
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Q Well, we are not asking what you presumed
1 about the source of his information. Let us get
2 directly to the point as to what was in your conver-
3 sation and I will speak more about what you said
4 than about what Erdmansdorff said. I am not talking
5 about the progress of the Russian war.

6 Do you not recall and is it not a fact
7 that you told Erdmansdorff that you had no informa-
8 tion whatever concerning the intention and the
9 deliberations of the Japanese Government, but accord-
10 ing to your own personal opinion that, in view of
11 the time of year, Japanese military operations
12 against the Soviet Union could take place only on a
13 limited scale?
14

15 A I do not recall.

16 Q Or in a conference with Ribbentrop on 23 March
17 1942 did not Ribbentrop mention to you that an advance
18 of Japanese armies against Vladivostok in the direction
19 of the Baikal Sea area would be advisable if Japan
20 felt that she was strong enough?

21 A Maybe he did say so but I do not remember.

22 Q Well, did you not fully agree with Ribbentrop's
23 suggestion and state that although you had received no
24 official communique of the Japanese intentions you
25 favored an advance against Vladivostok within East

1 Siberia within the year as you were of the opinion
2 that a more opportune time would never arrive again?

3 A I have no recollection of ever having said
4 anything of the sort and, as a matter of fact, I
5 never even had such thoughts.

6 Q In a conference with Weiszaecker on 21 April
7 1942 did you not state that, as a matter of course,
8 it seemed to you that Japan should attack the
9 Russians in East Asia?

10 A I have no recollection of having made such
11 a thing -- of having said such a thing.

12 Q And in this conference did you not assure
13 Weiszaecker that you were working hard to put an end
14 to the wholly unnatural situation in which Japan was
15 still living in peace and close neighborliness with
16 the Russian enemy so furiously engaged by Germany?

17 A May I have the date repeated, please?

18 Q 21 April 1942.

19 A I never had such a conference. I knew
20 more than anyone else that it was impossible for
21 Japan to fight a war on two fronts.

22 Q Regardless of what you may have known or
23 may not have known, I am asking you whether or not
24 you said these things?
25

A I am replying to you that I did not make

1 such remarks.

2 Q Was not the official request for the
3 Japanese entry into the Russian war made on 9 July
4 1942?

5 A According to my recollection I feel that
6 the official request to Japan was made in 1943 and,
7 as I have been repeatedly telling you, this is only
8 my own recollection. Previous to that time many of
9 their requests were repeatedly rejected. This date
10 to which you refer of July 9, 1942, I believe that
11 if a request was made at that time it was denied
12 but that request was not official -- September instead
13 of July.

14 Q Regardless of whether the request was
15 official or unofficial, did you at this conference on
16 9 July 1942 with Ribbentrop state that you were
17 well pleased with developments in Russia and North
18 Africa and that you yourself were convinced of the
19 imperativeness of a Japanese attack on Russia?

20 A I have no such recollection.

21 Q Did you not indicate to Ribbentrop that you
22 were very enthusiastic over the idea and that you
23 would immediately report the request to Tokyo?

24 A Does not your question really mean this, that
25 I refused the request on the 9th of July?

1 Q No, I mean just the opposite, that you
2 agreed to submit the request to Tokyo.

3 A I see. If on the 9th of July there was a
4 request from the German side I must have faithfully
5 transmitted it to the Japanese Government.

6 Q And did you also indicate that you were
7 enthusiastic over the idea of Japanese participation
8 in the Russo-German War?

9 A I do not think I conveyed anything except
10 the expressions of diplomatic courtesy.

11 Q Do you mean to tell this Tribunal that
12 your approval of the entry of Japan into the Russo-
13 German War was nothing more than a diplomatic gesture
14 of courtesy?

15 A No, that is not so. The duty of an
16 ambassador is to faithfully convey whatever one
17 government wants to say to another; and what I said
18 was that even though I knew in my own heart that it
19 was impossible for Japan to carry on a war on two
20 fronts, it was my duty to convey any German request
21 in this regard to the Japanese and thus at least to
22 preserve the formal diplomatic procedure.

23 Q I don't intent to criticise you for conveying
24 the request. I am asking you if you didn't advise
25 Ribbentrop that you were enthusiastic over the

1 prospect of Japan's entering into the Russo-German
2 War?

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8 A No, I did not.
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1 Q Well, on 30 July, 1942, did you convey to
2 Ribbentrop the Japanese reply to the official request
3 for participation in the Russo-Japanese War? And if
4 you did, what was the reply?

5 A I am not sure at all as to the dates, but
6 if, on the 9th of July, Germany actually did make a
7 request, naturally at some date later to that date the
8 Japanese Government would have sent a refusal.

9 Q You conveyed this refusal to Ribbentrop, did
10 you not?

11 A I think I must have. My memory is not at
12 all certain on this point, but I think I must have
13 taken it myself.

14 Q What was the ground of refusal?

15 A I think I must have refused, saying that
16 that was impossible. I could see no other reason.
17 I conveyed the refusal, saying that such a request was
18 impossible.

19 Q Well, now, at the time you conveyed this reply
20 to Ribbentrop, did you not advise Ribbentrop that you
21 had cabled Tokyo details of your last talk with him
22 and had also added your own point of view, namely that
23 an early intervention against Russia and intensive
24 action to paralyze English shipping in the Indian
25 Ocean was proper?

1 A It is not in my recollection.

2 Q Did you not also on this occasion state to
3 Ribbentrop that you had personally shared Germany's
4 understanding that today a uniquely favorable oppor-
5 tunity presented itself to Japan to deal a blow to
6 the Russians and moreover that the Japanese Army had
7 always advocated the opinion that such action against
8 Russia was necessary?

9 A I have no recollection of ever having said
10 any such thing.

11 Q Didn't you also tell Ribbentrop that un-
12 doubtedly there were various opinions in Japan on this
13 matter and that you did not consider the answer that
14 had been given to be final?

15 A I don't remember ever having made such a
16 statement.

17 Q Did you not also state that you had pro-
18 posed again and again to utilize the opportune moment
19 and this would be borne in mind in Japan?
20

21 A I didn't.

22 Q Did you not also state that in spite of the
23 large operations in the south you favored conducting
24 a thrust against Russia, too?

25 A I don't remember ever having said such a
thing.

1 Q Did you not close your remarks at this con-
2 ference with the assurance that in your opinion the
3 advance to the north was Japan's lateful question
4 which you had always reiterated to your government?

5 A I have no recollection of ever having made
6 such an assurance.

7 Q At a conference with Ribbentrop on 6 March,
8 1943 did you not advise him that although you did not
9 know the intentions of the military leaders in your
10 Fatherland, nevertheless, you knew that for a
11 long time Japan had the intention of turning against
12 Russia?

13 A Did you say to turn against Russia?

14 Q To turn against Russia, meaning to fight
15 Russia.

16 A I have no recollection of having made such
17 a remark.

18 Q At a conference between you and Ribbentrop
19 at Fuesli on 18 April, 1943, did you not state that
20 you knew the Japanese Embassy at Sofia had reported to
21 Tokyo rumors about a separate peace between Germany
22 and Russia in consequence of which you had arranged
23 for all such telegrams from Sofia to be given to you
24 and that you had taken measures against its repetition?
25

A I have no such recollection.

1 Q Did you receive, in September, 1944, an
2 instruction from your government suggesting conclu-
3 sion of a separate peace between Germany and Russia?

4 A I did.

5 Q In your conversation with Ribbentrop regard-
6 ing this matter, did you not state that Japan would
7 fight on Germany's side until the final victory?

8 A I don't recall having made such a statement;
9 but, since Japan was Germany's ally, it was but
10 natural that I should have.

11 Q General OSHIMA, did you approve of and favor
12 Japanese exploitation of French Indo-China in Sep-
13 tember, 1941?

14 A I never heard of that. I received instruct-
15 ions from my home government to the effect that the
16 Japanese Government desired the German Government,
17 through its Ambassador stationed in France, to support
18 the Japanese representations vis-a-vis French Indo-
19 China. But I conveyed these instructions from my
20 home government, but that is as far as I know of the
21 matter.
22

23 Q Now, you are very exact in the choice of your
24 language, and you use the word "representations" of
25 the Japanese Government to French Indo-China. But,
in this instance, didn't you mean demands on French

Indo-China and not representations?

1 A I am afraid I can't understand your ques-
2 tion.

3 Q Well, I will ask you more in detail. If
4 there is a misinterpretation, it will be straightened
5 out in the course of my question. Now, was not the
6 Japanese Government endeavoring at this time to use
7 the German Government to bring pressure on France
8 to accept Japanese demands on French Indo-China?
9

10 A I don't believe that Japan had any strong
11 desires in that regard.

12 Q If MATSUOKA took the position that armed
13 force would be used by the 20th of September unless
14 his demands were accepted, do you mean to say that
15 that was not a determined view?

16 A No such news was conveyed to Germany. If
17 I had been in Japan, I might have heard of that, but
18 in Germany I didn't hear about that at all.

19 ACTING PRESIDENT: We will adjourn until
20 nine-thirty tomorrow morning.

21 (Whereupon, at 1600, an adjourn-
22 ment was taken until Tuesday, 2 December,
23 1947, at 0930.)
24

25 - - -

2 DECEMBER 1947

I N D E X
Of
WITNESSES

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I N D E X

Of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1157-A		3521	Telegram from Foreign Minister MATSUOKA to Ambassador OSHIMA in Berlin dated 17 February 1941		34293
		3522	September 1941 issue of TOKYO NICHU NICHU	34309	
2819	3523		Letter dated 16 September 1938 from Foreign Minister UGAKI to Premier KONOYE re the Emperor's appointment of Lieutenant-General OSHIMA as Japanese Ambassador to Germany		34340
2819-A	3523-A		Letter from Premier KONOYE to Foreign Minister UGAKI dated 22 September 1938 re Imperial approval re appointment of Lieutenant-General OSHIMA		34340
2819-B	3523-B		Letter from Foreign Minister KONOYE to War Minister ITAGAKI dated 6 October 1938 re Emperor's appointment of Lieutenant-General OSHIMA as Japanese Ambassador to Germany		34340

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I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc.</u>
2819-C	3523-C		Letter from War Minister ITAGAKI to Foreign Minister Prince KONOYE dated 7 October 1938 re Emperor's appointment of Lieutenant-General OSHIMA's appointment as Ambassador		34340
			<u>AFTERNOON RECESS</u>		34349
2854	3524		Excerpt from Exhibit No. 2692 - Official Transcript of the International Military Tribunal at Nurnberg, Germany on 30 March 1946 (pp.6814-6816)		34351

1 Tuesday, 2 December 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 Appearances:

12 For the Tribunal, all Members sitting, with
13 the exception of: HONORABLE JUSTICE SIR WILLIAM F.
14 WEBB, Member from the Commonwealth of Australia, not
15 sitting from 0930 to 1600; HONORABLE JUSTICE JU-AO
16 MEI, Member from the Republic of China, not sitting
17 from 1330 to 1600.

18 For the Prosecution Section, same as before.

19 For the Defense Section, same as before.

20 - - -

21 (English to Japanese and Japanese
22 to English interpretation was made by the
23 Language Section, IMTFE.)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session.

ACTING PRESIDENT: All the accused are present except MATSUI, who is represented by counsel. We have a certificate from the prison surgeon of Sugamo certifying that he is ill and unable to attend the trial today. The certificate will be recorded and filed.

With the Tribunal's permission the accused SHIRATORI will be absent from the courtroom for the whole of the morning session conferring with his counsel.

Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the Tribunal please, we submit the following language correction:

Reference exhibit No. 1175, page 1, first line above paragraph numbered 1, and record page 10,363, line 4: Delete "Draft adopted at the Liaison Conference," and substitute "Draft proposed for decision by the Liaison Conference."

ACTING PRESIDENT: Mr. Tavenner.

- - -

1 H I R O S H I O S H I M A, an accused, resumed
2 the stand and testified through Japanese inter-
3 preters as follows:

4 CROSS-EXAMINATION

5 BY MR. TAVENNER (Continued):

6 Q General OSHIMA, when I was questioning you
7 yesterday regarding your opposition to MATSUOKA's
8 policies toward the United States in May and June
9 1941, I failed to ask you a question I intended to
10 ask you.

11 Did you not on or about July 12, 1941
12 state to Weiszaecker that you had recently advised
13 MATSUOKA again simply to break off negotiations with
14 Washington?

15 A I have no recollection of that.

16 Q Well, did you not in fact so advise
17 MATSUOKA?

18 A My conviction is that I did not say any
19 such thing. My attitude was made clear in a tele-
20 gram which I sent.

21 Q I will now return to matters involving
22 Indo-China.

23 I was asking you questions yesterday about
24 the request from Tokyo for German pressure to be
25 brought upon Vichy France in order to enforce certain

1 demands against French Indo-China. I desire now to go
2 back and ask you whether or not you received a wire
3 from MATSUOKA on 17 February 1941, requesting that
4 you take appropriate measures to bring German pressure
5 to bear upon France to accept Japanese mediation
6 plans in the Indo-China-Thailand dispute.

7 A Are you sure there is no mistake in the
8 date, 17 February 1941?

9 Q No, I am reasonably certain.

10 A At that time I was not yet in Germany.

11 Q Did there come to your attention a telegram
12 sent from MATSUOKA -- strike the question, please.

13 I hand you prosecution document 1157-A,
14 which purports to be a copy of a telegram from
15 MATSUOKA to Ambassador OSHIMA of date February 17,
16 1941, bearing number 123, Foreign Office, marked
17 "secret."

18
19 Now, whether you had actually arrived in
20 Berlin or whether you were in transit to Berlin at
21 that time or not, did you receive that telegram?

22 Just a moment, please. Since handing you
23 the document purporting to be a copy, I have obtained
24 the original. Will you examine the original?

25 A This telegram arrived in Berlin before my
arrival in Berlin. I believe that the Charge

1 d'Affaires took care of it. I, myself, think I must
2 have seen it after assuming my post, but I have no
3 clear recollection of having done so. However, since
4 this telegram bears neither the seal of the Foreign
5 Office nor the seal of the recipient, I cannot say
6 for a certainty that this is a telegram sent from the
7 Foreign Office.

8 Q You were en route from Japan to Berlin at
9 the time this telegram arrived in Berlin; is that
10 not true?

11 A Yes.

12 MR. TAVENNER: This telegram is offered in
13 evidence.

14 MR. CUNNINGHAM: It is objected to for the
15 reason that it is not properly identified, it has not
16 been shown that the telegram came to the attention of
17 the accused or the witness, and it is not binding
18 upon him.

19 I want to further object to the introduction
20 of documents on the part of the prosecution at this
21 stage of the proceeding without first showing that the
22 documents were not in the possession of the prosecu-
23 tion at the time they presented their case.

24 ACTING PRESIDENT: Your last objection has
25 been ruled on many times by this Tribunal, and it

1 ruled that they are allowed to introduce them in
2 cross-examination. So it will not be necessary to
3 argue that point any more.

4 MR. CUNNINGHAM: Yes, your Honor, but the
5 complexion and leadership of this Tribunal has
6 changed since that ruling was made upon that matter,
7 and it probably should be open for reconsideration.
8 I merely want to state that it is highly unfair, it
9 is prejudicial to the accused, it is taking unfair
10 advantage by the prosecution, it is making the
11 defendant answer to charges which were not presented
12 in the prosecution's case.

13 ACTING PRESIDENT: Did you not hear me say
14 we did not want any more argument on that?

15 MR. CUNNINGHAM: I presume it is within my
16 right to ask for a reconsideration of the matter.

17 ACTING PRESIDENT: The previous ruling of
18 the Tribunal will stand.

19 MR. CUNNINGHAM: Now, about the first ob-
20 jection: it is not properly identified by the witness,
21 is not shown to have come to the knowledge of the
22 witness, and is therefore not binding upon this wit-
23 ness.
24

25 ACTING PRESIDENT: What do you say to that,
Mr. Tavenner?

1 MR. TAVENNER: If the Tribunal please, the
2 witness testified that he was en route at the time this
3 was directed to him, that his attache, military attache,
4 handled it, that in all probability he saw it.

5 ACTING PRESIDENT: He said the charge d'affaires
6 and not the military attache.

7 MR. TAVENNER: Yes, sir, he said charge
8 d'affaires.

9 Therefore, it was a matter which binds him,
10 was handled by his agent, and which he has shown from
11 his own testimony he was sufficiently acquainted with
12 to have in general terms identified this document.

13 MR. CUNNINGHAM: Your Honor, may I correct a
14 statement which I consider is not a correct statement
15 of the fact, and that is that the charge d'affaires is
16 not an agent of the ambassador; that a charge d'affaires
17 is the ambassador ad interim during the time of the
18 absence of the ambassador, and whatever happens during
19 the time of the term of office of the charge d'affaires
20 is his responsibility.

21 ACTING PRESIDENT: I have a question from a
22 Member of the Tribunal which may have some bearing on
23 the matter.

24 When did you in fact return to Berlin?

25 THE WITNESS: My recollection is that I

1 MR. TAVENNER: If the Tribunal please, the
2 witness testified that he was en route at the time this
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19 the time of the term of office of the charge d'affaires
20 is his responsibility.

21 ACTING PRESIDENT: I have a question from a
22 Member of the Tribunal which may have some bearing on
23 the matter.

24 When did you in fact return to Berlin?

25 THE WITNESS: My recollection is that I

assumed my post on the 19th of February 1941.

1 ACTING PRESIDENT: What date does the telegram
2 show that it was received in Berlin?

3 MR. TAVENNER: The date is blank.

4 ACTING PRESIDENT: The date of dispatch was
5 the 17th of February?

6 MR. TAVENNER: Yes, sir, at 10 p.m.

7 ACTING PRESIDENT: By a majority, the objection
8 is overruled. The document will be admitted.

9 CLERK OF THE COURT: Prosecution document
10 1157-A will receive exhibit No. 3521.

11 (Whereupon, the document above
12 referred to was marked prosecution exhibit
13 No. 3521 and received in evidence.)

14 MR. TAVENNER: I regret to advise the Tribunal
15 that there are not sufficient copies in English avail-
16 able for all the Members of the Tribunal. I have pro-
17 duced all the copies that I can find.

18 ACTING PRESIDENT: Is there any copy for the
19 defense?
20

21 MR. TAVENNER: I have just suggested that
22 counsel look at my copy with me as I read it.

23 MR. CUNNINGHAM: I don't like to be difficult,
24 but I think that this manner of procedure after the
25 technical compliance that the prosecution required is

1 certainly difficult for us.

2 ACTING PRESIDENT: I will give you my copy.

3 MR. TAVENNER: The prosecution has never been
4 required to distribute documents being used on cross-
5 examination. Had I known in sufficient time that I
6 would use this document, I of course would have done so.

7 MR. CUNNINGHAM: That brings up another issue,
8 your Honor, that the prosecution in all reasonable fair-
9 ness should be required to serve these documents on the
10 defense at least twenty-four hours in advance so that
11 we have the same notice as they have as to what the
12 evidence in this case is going to be, and it is cer-
13 tainly a ridiculous thing to impose upon the defense one
14 obligation and not the same obligation upon the prosecu-
15 tion.

16 ACTING PRESIDENT: You have been told time
17 and again that that is not the rule of the Court. It
18 would destroy all surprise on cross-examination.

19 MR. CUNNINGHAM: I submit.--

20 ACTING PRESIDENT: It is no use taking up the
21 time of the Court with arguing these things over and
22 over again.

23 MR. CUNNINGHAM: I submit, your Honor, that
24 merely because the Court makes a mistake is no reason
25 why it should not correct the mistake.

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20 ACTING PRESIDENT: It is no use taking up the
21 time of the Court with arguing these things over and
22 over again.

23 MR. CUNNINGHAM: I submit, your Honor, that
24 merely because the Court makes a mistake is no reason
25 why it should not correct the mistake.

1 ACTING PRESIDENT: That will go from you,
2 Mr. Cunningham.

3 MR. TAVENNER: I will read the exhibit:

4 "Concerning the current mediation in the
5 Thailand-French Indo-China border dispute, please pro-
6 pose to the government to which you are assigned to use
7 its good offices to have Vichy government accept our
8 mediation plan after having explained the following:

9 "(1) The success or failure of our mediation
10 will not only gravely affect the political situation
11 of East Asia, but the positions of all Axis Powers.
12 Hence, this is not merely a local problem between Thai-
13 land and French Indo-China. That is, in case of rupture
14 of the mediation, fighting between Thailand and French
15 Indo-China will inevitably start again and this, in the
16 long run, may lead to our armed intervention. However,
17 in such case, it will become impossible to obtain
18 rubber, rice and other products of that area, which are
19 of necessity to both Japan and Germany. Needless to
20 say, this not only will be a great obstacle in the
21 execution of the national policies of both Japan and
22 Germany, but will enable England and America to take
23 advantage of this opportunity to throw the South Seas
24 into confusion through intensification of their activ-
25 ities toward the Netherland East Indies and French

1 Indo-China and also through the carrying out of their
2 favorite propaganda. It is clearer than seeing fire
3 that this will upset Japan's southern policy and
4 eventually cause a serious setback in the operations of
5 Germany and Italy.

6 "Moreover, in the above instance, the situation
7 will be such that it will be difficult to guarantee that
8 England will not steal a march on us and take such action
9 as to occupy the strategic points of Thailand. On
10 the other hand, in case the mediation is a success, we
11 will be able to peacefully establish our influence in
12 Thailand and French Indo-China and also firmly estab-
13 lish the grounds upon which to request for the various
14 conveniences which we desire, besides leaving no room
15 for the activities of England and America. Therefore,
16 the question as to whether the position of Japan in East
17 Asia will be strengthened or not depends directly on
18 the success of this mediation and this, at the same
19 time, affects the question of the extension of the Axis
20 Powers' influence against England and America.
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2 favorite propaganda. It is clearer than seeing fire
3 that this will upset Japan's southern policy and
4 eventually cause a serious setback in the operations of
5 Germany and Italy.

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7 will be such that it will be difficult to guarantee that
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19 time, affects the question of the extension of the Axis
20 Powers' influence against England and America.
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"(2) However, there is too great a gap in the assertions of both France and Thailand and there appears to be no sign of their compromising readily. On the other hand, since the international situation has become such that further delay in the settlement of the matter is not permissible, we have taken the assertions of both into consideration and decided this mediation plan. However, the gist of it is to return to Thailand the greater part of the territory lost in 1904 and 1907. The former was taken from Thailand by France as compensation for the abolition of extraterritoriality, but if the illogical state wherein extraterritoriality, itself, was established by force is taken into consideration, it was all the more illogical to make her cede her territory as compensation and this should be corrected. The latter was taken over from Thailand in the form of an exchange for several small areas, but looking at it racially or historically, there is no basis for it. It is merely a case where France stole it with the pressure of a powerful state.

"Moreover, in our mediation plan, we have decided to return only a small portion of the latter to Thailand in the form of a sale and to reserve for French Indo-China the historic sites of Cambodia in

1 recognition of French Indo-China's cultural achieve-
2 ments towards Ankor Vat.

3 "(3) Reasons for deciding on the mediation
4 plan.

5 "(a) Besides that mentioned previously,
6 the question of restoration of lost territory is,
7 for France, a problem of a colony or, accurately
8 speaking, an area of a protectorate located far away
9 and having no natural connection when considered
10 from all racial, historical, geographical and cul-
11 tural aspects, but it is, for Thailand, a problem
12 of her domain and racial alienation. Hence, the
13 degree of gravity differs completely.

14 "(b) Although France points out that
15 Thailand has suddenly enlarged upon her demand (the
16 two areas of Laos on the right bank of the Mekong
17 River) made prior to the acceptance of Japan's
18 mediation and asserts that this is unreasonable, that
19 there may be such a change with the development of
20 military action is inevitable. Hence, the question
21 lies in whether the present Thailand-French Indo-
22 China border is correct when the truth is considered.

23
24 "(c) In regard to the war situation, although
25 Thailand was defeated in sea battles, it has been an
overwhelming victory for Thailand in regard to land

1 battles, which hold the key to overall victory, and
2 if we had not proposed to mediate, the Thailand army
3 would have overrun all Cambodia. Besides the above
4 fact, it is not only our officers, who have inspected
5 the locality who unanimously admits the fact that the
6 morale of the Thailand Army is high while the French
7 Indo-China Army has absolutely no fighting spirit,
8 but even among the French officials who have visited
9 the front, there are some expressing the same opinion.

10 "(d) In view of this above-mentioned fact
11 and from the fact that the French Indo-China Army
12 although she may reopen hostilities is unable to
13 oppose the Thailand Army with all its force while
14 the Japanese Army is stationed north of Hanoi as at
15 present, the defeat of the French is nearly certain.
16 Consequently, it would be wise for France to forget
17 all sentimental arguments and sour grapes at this
18 time and seek for a rapid solution of the problem
19 with the magnanimity worthy of a great nation rather
20 than to discuss peace after being defeated.

21
22 "(e) In regard to the territory lost in
23 1904, although it seems as if France has a true in-
24 tention toward restitution on the whole, she is
25 manifesting considerable disapprobation in regard to
the territory lost (T.N. by Thailand) in 1907. As

1 for Thailand, however, there is a view that the
2 former could have been acquired without depending on
3 our mediation and that if Japan had not intervened,
4 they would have been able to take back more terri-
5 tory in the Cambodia area. The British also are
6 supporting this view to dampen Japan's mediation
7 and since this will lead to the alienation of the
8 collaboration between Japan and Thailand, the possi-
9 bility of Thailand regarding our mediation as
10 troublesome from that standpoint of her international
11 (T.N. This has been changed to 'internal' but the
12 original Japanese character is not crossed out)
13 situation and resorting to arms again is great if
14 the restoration of lost territories is restricted to
15 the former. Hence, we are confronted with the
16 absolute necessity of making the French make some
17 concession in regard to the latter and of preventing
18 Thailand from ceding from our camp and joining the
19 Anglo-American camp.
20

21 "(4) According to the explanation of
22 Thailand, when Thailand sought for Germany's help
23 in regard to this question of restoration of lost
24 territories, Foreign Minister Ribbentrop had replied
25 to the Thailand Minister in Germany and to the
Thailand Foreign Minister through the German Minister

1 in Thailand that since problems of French Indo-
2 China have been all left in the hands of Japan, Japan
3 should be consulted, and Thailand is thinking of act-
4 ing according to Japan's view in regard to this
5 matter.

6 "However, there has been no manifestation
7 of such intention as mentioned above from Germany
8 at any time. Not only that, but France has hinted
9 that as a result of the German-French Armistice
10 agreement, they have no right to dispose of freely
11 problems such as this matter pertaining to the dis-
12 position of her colonies until the peace conference.
13 Hence, it is deemed that the difficulty for the
14 completion of the mediation lies with France.

15 "However, (1) since the success of the
16 mediation will greatly affect the execution of the
17 national policies of the Axis powers, it is necessary
18 to bring this immediately to a success by all means
19 and to establish our influence and stamp out the
20 activities of England and America.

21
22 "(2) If we do not satisfy Thailand to a
23 certain extent, there is the danger of Thailand
24 swinging away from Japan. Moreover, for this pur-
25 pose, it is necessary to add pressure on France, but
to make France accept our mediation plan, it is

1 deemed that there is no alternative but to rely
2 upon the speedy and effective good offices of the
3 German Government toward the Vichy Government.
4 Hence, it is desired that appropriate measures be
5 devised immediately.

6 "Furthermore, the chief of the Bureau of
7 South Seas Affairs has shown our mediation plan to
8 the German councillor here on the 17th and has re-
9 quested for the good offices of the German Govern-
10 ment after explaining the detailed situation."
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1 ACTING PRESIDENT: Are you through?

2 MR. TAVENNER: Yes, sir.

3 ACTING PRESIDENT: I trust you will see that
4 the Members of the Tribunal get copies of that exhibit
5 when it is processed.

6 MR. TAVENNER: Yes, sir. All the rules of
7 the Tribunal with regard to the distribution will be
8 complied with as soon as the work can be physically
9 done.

10 ACTING PRESIDENT: I have two or three queries
11 here from Members of the Tribunal.

12 In effect, is it not possible to avoid this
13 situation of introducing these documents without copies?

14 MR. TAVENNER: It can only be avoided by
15 coming to a decision about the use of the document
16 far enough in advance to permit the processing department
17 to get the work done.

18 ACTING PRESIDENT: This is the second time
19 in two days.

20 I have a question from a Member of the Tribunal.

21 BY THE ACTING PRESIDENT:

22 Q Did I understand you correctly that you
23 assumed your duties in Berlin on the 19th of February?

24 A I did not begin my duties on that date. My
25 duties cannot commence until after I had presented --

1 after I present my credentials, and therefore I did
2 not begin my duties until the 28th of February.

3 Q What date did you actually arrive in Berlin?

4 A I arrived on the 19th.

5 BY MR. TAVENNER (Continued)

6 Q And you held conferences with Ribbentrop at
7 least as early as the 23rd of February, before you
8 had presented your credentials, didn't you?

9 A That was in an entirely different capacity.
10 I could not meet Ribbentrop in an official capacity
11 until after I had presented my credentials, but since
12 we were old friends he asked me to come and see him
13 and this visit was entirely contrary to diplomatic
14 usage.

15 Q But nevertheless it occurred?

16 A Yes.

17 Q Now, did the German representatives in
18 accordance with this telegram bring pressure to bear
19 on Vichy France?

20 A I don't recall at all.

21 Q Did you later communicate with Tokyo in regard
22 to this matter?

23 A It is not in my recollection.

24 Q Did you approve of and favor Japanese establish-
25 ment of naval and air bases in South French Indo-China

in 1941?

1 A My opinion was never asked on that matter,
2 and actually since I had no knowledge regarding how
3 things stood in the Orient at the time, I never even
4 thought of that.

5 Q Well, now, let me refresh your recollection
6 about that. Did you not, as early as 12 July 1941,
7 advise Weiszaecker that the occupation of certain
8 positions in South Indo-China as bases for aircraft
9 and warships was an urgent Japanese need?
10

11 A I must have conveyed to him instructions which
12 arrived from Japan.

13 Q Then you did know of the contemplated action
14 of establishing naval and air bases in South Indo-China
15 as early as July, 1941?

16 A I learned of Japan's plans in Indo-China --
17 French Indo-China -- only through instructions.

18 Q Now, will you answer my question?

19 A Of my own knowledge, I knew nothing.

20 Q Will you still answer my question? You did
21 learn, then, as early as July the 12th 1941 that Japan
22 contemplated the establishment of air bases and naval
23 bases in South Indo-China, didn't you?
24

25 A No, I didn't. I said that I knew that Japan --
 that there were such thoughts in Japan for the first

1 time through the instructions which I received.
2 Therefore, if it is true that I did see Weiszaecker
3 on the 12th of July 1941 and talked to him on that
4 matter, it must have been based on the instructions
5 which I received. If I had received no instructions
6 by that date, the 12th of July 1941, then the report
7 of that conversation must be false.

8 Q Well, when do you claim that you first received
9 such instructions from your Government?

10 A I don't recall the exact date, but it is
11 around the time of which you spoke yesterday.

12 Q Well, what time was that?

13 A I don't exactly -- I don't recall the exact
14 date.

15 Q Well, the approximate date.

16 A It must have been some time in July. This
17 matter was not taken up as a subject of discussion at
18 our embassy in Berlin. We just made one communication
19 to the German Government on it, and since it was
20 something that happened quite some time ago, I have
21 forgotten the date.
22

23 THE MONITOR: Japanese court reporter.

24 (Whereupon, the Japanese court reporter
25 read.)

THE INTERPRETER: Correction: "This matter

1 was not handled by the Berlin Embassy for an extended
2 period of time. We received only one instruction --
3 only once did we receive instructions from the
4 Japanese Government on this matter, and therefore
5 since it is something that happened quite some time
6 ago, I have forgotten the exact date."

7 Q Now, did you know in December, 1941 of the
8 penetration of Japanese troops into French Indo-China
9 and did you not approve that action?

10 A My recollection is that I was never informed
11 of that, and as to your second point, my opinion was
12 not consulted on that matter either.

13 Q Well, you did in fact approve of it, didn't
14 you?

15 A I don't think I ever did.

16 Q I hand you prosecution document No. 3270, which
17 is a bound volume of the daily issues of the Tokyo Nichi
18 Nichi, and I ask you to look at the issue of the 27th
19 day of September 1941.

20 Will you please state whether or not there
21 appears in that issue a newspaper article, datelined
22 Berlin, September 25, 1941, quoting a speech which you
23 made in commemorating the first anniversary of the
24 conclusion of the Tripartite Pact?

25 A There is.

1 Q I believe the article also carries your
2 picture, doesn't it?

3 A Yes, there is.

4 Q You made a speech on that occasion, didn't
5 you?

6 A I did not make a speech. I think I talked
7 to a reporter who came to interview me, but I cannot
8 take any responsibility for the contents of that
9 article. And in regard to French Indo-China, also,
10 from what I have been able to glance through here, all
11 it says is the Japanese occupation -- the Japanese
12 advance into French Indo-China... I can't take any
13 responsibility for the contents of the article at all.

14 MR. TAVENNER: I desire to offer for
15 identification only the newspaper volume in the hands
16 of the witness, and from it I desire to introduce in
17 evidence document 3270-A, an excerpt therefrom, which
18 is the result of the newspaper interview mentioned.

19 MR. CUNNINGHAM: The document is objected to
20 for the reasons that it is not properly identified,
21 not properly authenticated, not proven to be genuine,
22 not in the language of the accused or of the witness,
23 not the best evidence in that it was not offered through
24 the means of the best authority available to introduce
25 the contents of the document and that would be the

reporter who took -- made the interview.

1 For the further reason that it is not the
2 best manner in which to introduce evidence of this
3 kind; that newspaper articles and propaganda issued
4 by newspapers other than by the individuals have been
5 discarded by this Tribunal by the wholesale.

6 Certainly the offering of this document violates
7 all of the rules which have been laid down by this
8 Tribunal for documents of probative value, for documents
9 with proper authenticity and for documents which have
10 a binding effect upon the individuals charged.

11 ACTING PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: The witness, if the Tribunal
13 please, has admitted having an interview with a press-
14 man, as a result of which this articles was printed.
15 I think that sufficiently identifies it. If there are
16 parts of it that the witness claims he has a desire to
17 explain that is another matter. But here is a news
18 interview which he admits he had.

19 ACTING PRESIDENT: The first document is
20 admitted for identification only.

21 CLERK OF THE COURT: Tokyo Nichi Nichi for
22 September, 1941, will receive exhibit No. 3522 for
23 identification only.
24

25 (Whereupon, the document above

1 referred to was marked prosecution exhibit
2 No. 3522 for identification.)
3 ACTING PRESIDENT: By a majority, the
4 objection is sustained as to the second document.
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BY MR. TAVENNER (Continued):

Q General OSHIWA, were you not of the opinion
that the Japanese Government, in establishing the so-
called new order in East Asia under the Tripartite Pact,
planned to use armed force for its accomplishment?

A I did not think so.

Q Let me see if I can refresh your recollection.

Did you not have a conference with Erdsmandorf
on or shortly prior to 18 October 1941, in which you
stated that in your opinion the Japanese Government, in
concluding the Tripartite Pact, must have been certain
that the Great East Asiatic area could be achieved only
by advance with the sword to the south?

A I have no recollection of having stated that.

Q Well, do you not recall, and is it not true,
that you further stated in this conference that action
had been prepared and the question was only when it should
be released?

A I have no recollection of having made such a
statement.

Q Do you not recall, and is it not true, that
you further stated that the attack may possibly be
simultaneous with German operations against Great Britain?

A I have no recollection of having made such a
statement.

1 Q Do you not recall, and is it not true, that
2 you also stated that it would be advantageous to estab-
3 lish a land connection between Germany and Japan by
4 Japan's advance into East Siberia, and that you had pro-
5 posed this repeatedly to your government?

6 A I have no such recollection, and I should like
7 to state, furthermore, that, as I told you yesterday, I
8 had no official conversations with Erdsmandorf at all.
9 My belief is that he merely pieced together what I told
10 him at social functions and the like with other infor-
11 mation which he had received from other sources, and
12 gave it out in that form.

13 Q Well, now, did you not state to Erdsmandorf
14 on another occasion, on or shortly prior to 17 November
15 1941, your personal view that an advance by Japan toward
16 the south was unavoidable, especially because of the
17 pressing need for petroleum?

18 A I have no recollection of having stated that.

19 MR. CUNNINGHAM: I might add my objection now,
20 that I would like to object to any further questions along
21 this line for the reason that they are immaterial. What
22 he said and what diplomatic conversations or chatter
23 took place between the Ambassador and some minor official
24 of Germany, is immaterial. In my submission, anything
25 relative to the diplomatic conversations between any of

1 the Germans is immaterial here; that fundamentally these
2 accused are charged with agreeing among themselves, not
3 with outside parties, and no other charge is contemplated
4 by the Charter.

5 ACTING PRESIDENT: The objection is overruled.

6 BY MR. TAVENNER:

7 Q You have already answered the question, I be-
8 lieve?

9 A I have.

10 Q Now, in this conference with Erdsmandorf, did
11 you not also explain that by advance to the south you
12 meant the seizure of the island of Borneo, above all,
13 was necessary?

14 A I never made such an explanation, and further-
15 more, the interesting thing about that exhibit is that
16 there are names mentioned in it -- geographical names
17 mentioned in it which I do not know.

18 Q You do not know Borneo?

19 A No, not Borneo, but other points on the map.

20 Q Well, now, I had not asked you about any other
21 points on the map, but let us talk about the map a
22 moment. Did not you and Erdsmandorf examine the map
23 to determine how far it was from Borneo to the nearest
24 Japanese troops in South Indo-China, and did you not
25 determine that the distance was 1,000 kilometers?

A No, I didn't.

Q Did you not also discuss the nature of the
1 fortifications at Singapore, and did you not make the
2 suggestion that an attack on Singapore would be most
3 effective?

4 A No, I have no such recollection.

5 Q Did you not also tell Erdsmandorf that the
6 three Japanese infantry divisions on the island of
7 Hainan, you assumed, were being trained for landing
8 operations and combat in tropical regions?

9 A I have no recollection of having had such a
10 conversation.

11 MR. TAVENNER: I offer in evidence excerpts from
12 prosecution documents 2156 and 2157 which were put to
13 the witness during cross-examination. I do not intend
14 to read them. The document will be processed and cir-
15 culated as soon as the work can be completed.

16 THE WITNESS: May I not be shown the Japanese
17 copy?
18

19 ACTING PRESIDENT: Just a minute. I did not
20 catch the name of what these documents are supposed
21 to be.

22 MR. TAVENNER: I put to the witness during the
23 course of cross-examination certain excerpts from his own
24 interrogations. Now I am merely offering the proof of
25 those excerpts, which is exactly the same thing that

1 was done in connection with the cross-examination of
2 General KAYABE. Does that fully explain it?

3 MR. CUNNINGHAM: Certainly I object, for the
4 reason that it serves no useful purpose. It clutters
5 the record and is mere repetition of what has already
6 transpired. Certainly it has no probative value
7 and it is merely compounding the record.

8 ACTING PRESIDENT: If it is already in the
9 record, what is the use of making this extra?

10 MR. TAVENNER: If the Tribunal please, it
11 is true that I read, and I am certain I read accurate-
12 ly, from these interrogations during the course of
13 cross-examination of the witness, but I think it is
14 proper, and I should be expected to prove that the
15 things I read were actually interrogations of this
16 accused and were an accurate record of his interroga-
17 tions. In other words, I have confronted the witness
18 with what we claim he said on interrogation. I am now
19 proving that he said those things just as I have
20 stated.

21
22 ACTING PRESIDENT: Does the document you
23 have presented contain any more than the questions
24 and answers you propounded to the witness?

25 MR. TAVENNER: No, sir. The excerpts are con-
fined to those which he denied making or expressed

1 uncertainty in making.

2 MR. CUNNINGHAM: In my submission, if there
3 is no irregularity there is no necessity for the filing
4 of the document, and if there is a contest as to what
5 he said on different occasions, that seems to be our
6 objection, not the prosecution's.

7 This is not the best way to do this. If they
8 want to prove the authenticity and the genuineness
9 of these statements that we made, they should bring
10 the person who conducted the interview and they should
11 bring the interpreter to show what he actually said and
12 what was actually recorded, and then he can correct it
13 facing them.

14 ACTING PRESIDENT: We will recess for fifteen
15 minutes.

16 (Whereupon, at 1050, a recess
17 was taken until 1122, after which the
18 proceedings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: The objection is sustained
4 at this time. The prosecution may tender these docu-
5 ments at the time of their rebuttal and the Tribunal
6 will consider their admissibility at that time.

7 MR. CUNNINGHAM: Your Honor, that raises
8 another question which it is suggested be kept open
9 until full discussion before this full Tribunal and
10 that is the question of the right of the prosecution
11 to a rebuttal. Mr. Furness is ready to argue that
12 question fully before the Tribunal at a time when it
13 can be agreed upon but he is not here this morning.

14 ACTING PRESIDENT: That question will be
15 dealt with when it arises when they make their offer
16 in rebuttal.

17
18 MR. CUNNINGHAM: Your Honor, is it not a
19 little more reasonable to determine beforehand in
20 order that all of the preparation necessary for
21 rebuttal will be avoided if we adopt the rule that
22 there is no right of rebuttal?

23 ACTING PRESIDENT: We will consider it at
24 that time.

25 Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the

1 Tribunal please, we submit the following language
2 corrections: Reference exhibit No. 2619, Paper
3 No. 3, first paragraph, and record page 22,548,
4 line 25, page 22,549, lines 1-4. Delete the entire
5 paragraph and substitute: "In the event of diplomatic
6 inquiries from third parties, after the conclusion
7 of the pact, now under negotiation, between Germany,
8 Italy and Japan, the Japanese Government will make a
9 verbal explanation in the following sense:"

10 Exhibit No. 774-A, page 4, line 7, delete
11 "in" from the phrase "in the expulsion."

12 ACTING PRESIDENT: Mr. Tavenner.

13 BY MR. TAVENNER (Continued):

14 Q General OSHIMA, did you have a conference
15 with Gaus on or shortly before 11 October 1941 with
16 regard to the prolongation of the Anti-Comintern Pact?

17 A I don't recall the date and I don't recall
18 whether my conversation was with Ribbentrop or with
19 Gaus, but I do know that I did have such a conversation.

20 Q Did you advise the person with whom you
21 conferred that you had wired to Tokyo repeatedly about
22 the matter?

23 A I have no such recollection.

24 Q Did not you and the person with whom you
25 conferred discuss the advisability of playing up the

1 occasion of prolonging the Anti-Comintern Pact in a
2 big manner?

3 A I have no recollection of having had such
4 a discussion.

5 Q Did you sign the prolongation agreement in
6 behalf of Japan?

7 A In accordance with instructions from the
8 Japanese Government I signed the agreement.

9 Q That was November 25, 1941, I believe?

10 A Yes.

11 Q Was a ceremonial meeting held in commemora-
12 tion of its signing?

13 A I believe a reception was held at Hitler's.

14 Q Did you speak on that occasion?

15 A No, I didn't.

16 Q Did you not have some public word to state
17 at the reception or at the time of the signing?

18 A No. The form that was adopted when this
19 prolongation was decided on was that each country par-
20 ticipating was to make a declaration of its intent,
21 and when Japan's turn came up I made this declara-
22 tion of Japan's position, and this constituted the
23 prolongation of the agreement. The signing of the
24 pact by writing which was mentioned before is errone-
25 ous, and the form which I have just mentioned, this

1 declaration of intent was equivalent to a written
2 signing of the pact.

3 Q Did any other Japanese speak on that occasion
4 in regard to the matter in addition to yourself?

5 A No one did.

6 Q Did you speak in German?

7 A Yes.

8 Q I hand you IPS document 4014, entitled
9 "Japanese speaks German," and I ask you if you made
10 that statement or speech?

11 (Whereupon, a document was handed
12 to the witness.)

13 A This is erroneous. The statement I made at
14 that occasion was a very simple one, merely saying that
15 the Japanese Government agreed to the prolongation of
16 the pact.

17 Q Well, did you make the statement that I
18 handed you?

19 A It is not in my recollection at all. This
20 which you have handed me is not a declaration but a
21 speech, a kind of speech that one would make at a
22 dinner table. It is completely different.

23 Q Well, my question to you was whether or not
24 you made that speech?

25 A No, I didn't.

1 Q It is a speech made in commemoration of the
2 signing of the Anti-Comintern Prolongation Agreement,
3 is it not?

4 A As I have told you, I made no speech at the
5 commemoration reception. I merely made a declaration
6 at the ceremony which took the place of signing the
7 pact.

8 Q All right, let's forget for the moment the
9 reception to which we referred. Is this not a speech
10 made in commemoration of the signing of the Anti-
11 Comintern Prolongation Agreement, as shown from its
12 context?

13 A What I am telling you is that I made my
14 declaration not at any commemoration but at the actual
15 ceremony which took the place of the actual signing.
16

17 Q Will you please answer my question and forget
18 about previous questions that were asked you. Now,
19 will you answer my last question, please?

20 A I understood your question to mean whether or
21 not this was a speech made at a meeting in commemoration
22 of the signing of the prolongation of the pact. But
23 I have no recollection of having made such a speech.

24 Q I will put the question this way: Does not
25 this document show on its face that it was a speech
made at some time, or an article written on some

1 occasion in commemoration of the signing of the Anti-
2 Comintern Prolongation Agreement?

3 A Yes. As I have told you repeatedly, this
4 document was not one which was used at the time of
5 the ceremony equivalent to the signing of the pact,
6 but it was a speech made at some occasion commemorating
7 this pact. But I, myself, have no personal recollection
8 of the speech.

9 Q Does not this document show on its face,
10 particularly in the last paragraph, that it was a
11 speech, or article, made in behalf of Japan by someone
12 who had authority to speak in behalf of Japan?

13 A On reading the last paragraph it is clear
14 that this speech was made on some occasion commemor-
15 ating the prolongation of the Anti-Comintern Pact.
16 But it is also equally clear that this speech was not
17 a diplomatic pronouncement but was a speech made on
18 a social occasion. There were several functions in
19 commemoration of the prolongation of this pact held
20 after this prolongation was decided on. There were
21 four or five I believe, but I do not recall ever
22 having made a speech on any one of those occasions.

23 Q Was this speech made by you on any occasion,
24 or was it made by someone else with your approval or
25 acquiescence on any occasion?

1 A No, I have no recollection of this speech
2 at all.

3 Q Do you have any recollection of it as an
4 article given to the press, or, in other words, do
5 you have any knowledge of this document whatever?

6 A No, none whatsoever.
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1 Q General OSHIMA, this morning you advised us
2 that you arrived in Berlin on 19 February 1941. Do
3 you recall whether there was a reception accorded you
4 at the train upon your arrival?

5 A No, there was no reception on the train.

6 Q Who met you at the train?

7 A The State Secretary for Foreign Affairs.

8 Q Who was he?

9 A Weiszaecker.

10 Q Now, General OSHIMA, I am going to show you a
11 letter prepared by General Wiszaecker bearing date of
12 February 17, 1941, and I will ask you if that does not
13 refresh your recollection on the date as to the date of
14 your arrival.

15 A It does refresh my recollection.

16 Q Then, now will you tell the Tribunal the date
17 of your arrival?

18 A It was the 17th of February. I was mistaken.

19 Q And the telegram that you stated that had arrived
20 before your arrival actually arrived after your arrival,
21 didn't it?

22 A That I do not know because I wouldn't look at
23 a telegram immediately upon arriving in Berlin. In any
24 case when I told you it was the 19th of February that
25 was a mistake in my memory, on my part.

1 MR. TAVENNER: That concludes the cross-exam-
2 ination, if the Tribunal please.

3 ACTING PRESIDENT: I have one or two questions
4 on behalf of a Member of the Tribunal.

5 BY THE ACTING PRESIDENT:

6 Q Was the non-aggression pact which was concluded
7 between Germany and the U.S.S.R. aimed at Japan?

8 A No.

9 Q What Japanese interests were prejudiced by
10 that pact?

11 A No interests were prejudiced, none.

12 Q For what reasons were you dissatisfied with
13 that pact?

14 A The first point was that it was against the
15 Anti-Comintern Pact. The second point was that this
16 pact was concluded in the midst of negotiations for the
17 strengthening of the Anti-Comintern Pact and without
18 previous notice to Japan. Those were the two points
19 which were the reasons for my objections.

20 Q Did you not advocate a declaration of war
21 against the U.S.S.R. by Japan and Germany?

22 A Do you mean during the war, your Honor?

23 Q At any time.

24 A No.
25

ACTING PRESIDENT: That is all. Mr. Cunningham.

1 MR. CUNNINGHAM: If your Honor please, if there
2 are no other counsel who have any additional cross-
3 examination, I have a few questions or one question on
4 redirect. I should like to clarify a point which came
5 up during the cross-examination of this witness on
6 last Friday, November 28, transcript pages 34,130-131,
7 concerning the negotiations of 1938, 1939.

8 REDIRECT EXAMINATION

9 BY MR. CUNNINGHAM:

10 Q Mr. OSHIMA, on page 21 of your affidavit you
11 testified as to the instruction received by you at the
12 end of March 1939 that the Japanese government accented
13 in principle the duty of military assistance in case
14 Germany was attacked by countries other than Soviet
15 Russia. As suggested by Mr. Tavenner, in your interro-
16 gation, exhibit 497, transcript page 6,065, it appears
17 that you stated that according to the same instruction
18 the aid would be confined to military advice such as
19 trading of intelligence and so forth. Would you ex-
20 plain the discrepancy between the two statements?

21 A First of all I think there was a misinterpreta-
22 tion. The first mistake I believe was that "military
23 assistance" was translated "military advice."
24

25 The instructions I received from Japan were to
the effect that Japan would accept the duty of giving

1 military assistance. As I stated at the beginning of
2 my interrogation on this point, when I was receiving --
3 when I was being interrogated by the prosecution, the
4 contents of our talks, of my statements were abridged.
5 The instructions regarding the details of military
6 assistance or entering the war such as trading intel-
7 ligence reports or of giving bases, these instructions
8 came later. When I was speaking of these instructions
9 I abridged the contents of those instructions and,
10 therefore, a misunderstanding arose and the first and
11 second instructions were confused when they appeared
12 on the record. In this part of the interrogatories,
13 since the matters were very involved, there were other
14 points on which matters were confused, on which there
15 were mistakes. There were many involved matters, many
16 mistakes, but since it was a very complicated process
17 to try to correct these errors I decided to make a
18 general correction in my affidavit, of all these matters
19 in my affidavit.

20 ACTING PRESIDENT: We will adjourn to 1:30.

21 (Whereupon, at 1200, a recess was
22 taken.)
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AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at
4 1345.

5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

7 - - -

8 H I R O S H I O S H I M A, an accused, resumed
9 the stand and testified through Japanese in-
10 terpreters as follows:

11 ACTING PRESIDENT: With the Tribunal's
12 permission the accused SHIMADA and HIRANUMA will be
13 absent from the courtroom the first period of the
14 afternoon session conferring with their counsel.

15 Mr. Cunningham.

16 MR. CUNNINGHAM: That concludes the re-
17 direct examination of this witness, and if there is
18 no objection to reading the following citations from
19 the record as corroboration of the evidence of this
20 witness, why I suggest that he can be excused on the
21 condition that we be permitted to recall him if and
22 when we decide whether or not to examine him further
23 on the documents which were introduced by the prose-
24 cution on cross-examination.
25

ACTING PRESIDENT: That is rather an unusual

request.

1 MR. CUNNINGHAM: Well, you see, your Honor,
2 our defense was based upon the case as the prosecution
3 made it out in their part of the case, and naturally
4 we haven't had an opportunity to peruse these docu-
5 ments and to explore the other documents which we
6 have, which will explain and defeat the purpose,
7 perhaps, of the documents of the prosecution which
8 were introduced in cross-examination. I merely want
9 it understood that the witness is not excused per-
10 manently but on that condition.

12 ACTING PRESIDENT: It is suggested to me
13 that if you pursue that course that you will have to
14 present your evidence by affidavit in advance, and the
15 Court can determine at that time whether or not it
16 will be allowed to be admitted.

17 MR. CUNNINGHAM: Well, it occurs to me that
18 we should be no more bound to serve the evidence by
19 affidavit than we would be to serve the questions
20 which we were going to ask on redirect examination
21 based upon the cross-examination, any more than the
22 prosecution should have been required to serve upon
23 us their cross-examination. I submit that under a
24 fair interpretation of the rule they should have been
25 required to do so, but we shouldn't be required to do

1 so either.

2 We are getting into a moot question again,
3 your Honor, because I am not sure I am going to ask
4 him back. I merely want to preserve my record.

5 THE PRESIDENT: Well, I am not going to
6 make a ruling on that without the vote of the
7 Tribunal. Personally, I do not agree with you. We
8 will deal with the matter when it arises.

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1 MR. CUNNINGHAM: I ask that the witness be
2 returned to his usual place.

3 ACTING PRESIDENT: I have just been handed a
4 few more questions by a Member of the Tribunal.

5 Did you conduct negotiations in Berlin with
6 the aim of obtaining a piece of land and a house for
7 the Japanese Embassy where you could carry out an in-
8 telligence and subversive activities against the
9 U.S.S.R.?

10 THE WITNESS: When I was military attache,
11 one of my subordinates did buy a house.

12 ACTING PRESIDENT: The next question: Did you
13 buy a piece of real estate in Falkensee, and in whose
14 name was it bought?

15 THE WITNESS: I think it was bought in the
16 name of an officer in the Ministry of National Defense.

17 ACTING PRESIDENT: Whose money paid for it?

18 THE WITNESS: The Japanese Army.

19 ACTING PRESIDENT: Do you confirm the fact
20 that the above-mentioned estate was then the headquarters
21 of Japanese White Russian spies where anti-Soviet
22 pamphlets were printed for conveying to the Soviet
23 Russia and where the different subversive measures have
24 been worked out against the U.S.S.R.?

25 MR. CUNNINGHAM: I should like to object to

1 that question for the reason that it is immaterial and
2 it is common knowledge that Soviet Russia has the same
3 activities going on in practically every country in
4 the world and we should not have to defend against
5 something like that.

6 ACTING PRESIDENT: The objection is overruled.

7 THE WITNESS: I did hear that a very small
8 number of people were carrying on printing work in that
9 house. But I do not know what the effects of their
10 work were, what they achieved. Furthermore, I do not
11 think that house was ever made the headquarters for
12 any subversive activities.

13 ACTING PRESIDENT: Are you aware of any facts
14 when in 1938 and 1939 the Japanese Embassy in Berlin
15 sent saboteurs and terrorists into the U.S.S.R. by way
16 of Turkey in order to kill Stalin?

17 MR. CUNNINGHAM: I should like to object to
18 that question for the reason that it anticipates a
19 political offense for which the accused is not on trial
20 here and is certainly immaterial in this proceeding.

21 ACTING PRESIDENT: That objection is overruled.

22 THE WITNESS: There are no such facts.

23 ACTING PRESIDENT: Did you have a talk with
24 Himmler on 31 January 1939 to the effect that, together
25 with German spies and with the assistance of White

1 Russians, you were undertaking a large-scale sabotage
2 and terroristic work and that you sent ten of your
3 agents with bombs across the Caucasus in order to
4 assassinate Stalin?

5 MR. CUNNINGHAM: That is objected to as repe-
6 tition.

7 ACTING PRESIDENT: Objection overruled.

8 THE WITNESS: I never had any such conversation
9 with Himmler.

10 ACTING PRESIDENT: That is all the questions
11 by the Tribunal.

12 Have you any further questions?

13 MR. CUNNINGHAM: No further questions at this
14 time, your Honor.

15 ACTING PRESIDENT: The witness will take his
16 place in the dock.

17 (Whereupon, the witness was excused.)
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1 MR. CUNNINGHAM: In order to corroborate the
2 statement of OSHIMA I should like to call the attention
3 of the Court to the following exhibits and witnesses.

4 MR. TAVENNER: If the Tribunal please.

5 ACTING PRESIDENT: Mr. Tavenner.

6 MR. TAVENNER: Counsel has stated that he
7 desires to call to the Tribunal's attention certain
8 references. Those references appear in the second
9 document or supplemental document entitled "Defense
10 document 2862."

11 I am mistaken. It states that it is to
12 appear after document 2862, but is not on the order
13 list.

14 Now, this three and a half page statement is
15 something far more than a statement of references to
16 exhibits. It is an argument prepared by counsel for
17 the purpose of discussing the weight of the witness'
18 affidavit and is the type of an argument which you
19 would expect to hear in the summation of the case, and
20 every bit of which you will hear in the summation of
21 the case. I think it would constitute a harmful
22 precedent to permit this type of argument to be made
23 during the course of the taking of evidence, and it
24 would be in opposition to all the rulings of the Tribunal
25 on this subject.

1 For these reasons, I offer objection to the
2 introduction or reading of this document in evidence.

3 MR. CUNNINGHAM: Your Honors, a word of
4 explanation may alleviate the situation here.

5 In the first place, we have listened to the
6 prosecution interrupt our defense case time and time
7 again by arguing their case by supporting the cross-
8 examination and the additional examination by references
9 to the exhibits and by references to the court page
10 records.

11 ACTING PRESIDENT: There is no objection to
12 your making references to pages of the transcript or
13 the exhibit. The argument that you have added to it
14 is what the prosecution objects to.

15 MR. CUNNINGHAM: That was my second point,
16 your Honor.

17 In the preparation of our defense case we had
18 affidavits and documents which were lengthy and which
19 would have established these facts which are established
20 by a mere sentence here and there and we devised this
21 as a time-saver to prevent putting in this additional
22 corroborating evidence.

23 Now I admit that this might be proper in
24 summation, but I submit that it will save the Tribunal
25 and us a great deal more time if, while the evidence

1 and the affidavit are fresh in the minds of the
2 Tribunal, we can by mere reference refresh your
3 recollection rather than in summation have to go
4 in broad detail to bring back to light the things
5 which were mentioned in the affidavit. I think it
6 is a time-saver in both respects.

7 And in conclusion I admit that there are a
8 couple of quotations from the record, but we listened
9 here to 97 pages in the KIDO affidavit as reference to
10 the record and refreshing recollection. I only have
11 three pages here which will serve that purpose.

12 ACTING PRESIDENT: It is not a question of
13 the number of pages. The question is what is in those
14 pages.

15 MR. CUNNINGHAM: Well, I suggest that I can
16 cut out the quotations as I go through and hammer it
17 down a couple of sentences.

18 ACTING PRESIDENT: By a majority the objection
19 is overruled to that part, except the mere citations
20 to the exhibits and the pages of the transcript.

21 I said that the objection was overruled. I
22 meant to say that the objection was sustained.

23 MR. CUNNINGHAM: With the exception?

24 ACTING PRESIDENT: With the exception.

25 MR. CUNNINGHAM: Well, that is the way I

1 understood you, and I was about to scratch out all
2 the material except the references.

3 As to paragraph 6, (5), b, concerning
4 OSHIMA's understanding of the purpose of the Anti-
5 Comintern pact:

6 1) Exhibit 484, transcript pages 22,480-22,482
7 and 22,483-22,488.

8 I will eliminate the next.

9 2) Exhibit 2762, transcript page 24,739.

10 3) Exhibit 486-A, transcript page 5,976.

11 Does that comply with your ruling?

12 ACTING PRESIDENT: Go ahead.

13 MR. CUNNINGHAM: (Continuing)

14 4) Exhibit 2487, transcript page 20,623, and
15 exhibit 2488, transcript pages 20,671-20,675.

16 5) Exhibit 2497, transcript pages 20,818-9.

17 As to paragraph 7 of the affidavit:

18 Exhibit 2762, transcript page 24,739.

19 3. As to paragraph 9, (8), concerning...

20 1) Exhibit 2619, transcript page 22,542.

21 Page 2, or page 5B here, but reading page 2:

22 2) Exhibit 2735-A, transcript page 24,290.

23 4. As to paragraph 10, (2):

24 Exhibit 506, transcript pages 6124-6:

25 5. As to paragraph 11, (2), transcript pages

24,554-24,555.

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2 6. As to paragraph 12, (1), exhibit 2744,
transcript page 24,402.
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4 7. As to paragraph 12, (2), exhibit 2744,
5 transcript page 24,404.
- 6 8. As to paragraph 14, (1):
 - 7 1) Exhibit 2762, transcript pages
8 24,740-1.
 - 9 2) Transcript pages 26,678-26,683.
 - 10 3) Transcript pages 26,919-26,920, and
11 26,916.
- 12 9. As to paragraph 15, (3):
13 Exhibit 582, transcript pages 6543-4.
- 14 10. As to paragraph 16:
15 Exhibit 2762, transcript page 24,742.
- 16 11. As to paragraph 17, (1):
 - 17 1) Testimony of witness YAMAMOTO,
18 transcript pages 26,119-26,121.
 - 19 2) Exhibit 3000, transcript pages
20 26,570-1, affidavit of Admiral NOMURA.
- 21 12. As to paragraph 17, (5):
 - 22 1) Exhibit 2762, transcript page 24,742.
 - 23 2) Exhibit 2763, transcript page 24,749,
24 testimony of Schmidt in Nurnberg Trial.
- 25 13. As to paragraph 18 of the affidavit,

1 testimony of Admiral NOMURA, transcript page 26,599-
2 26,600.

3 14. As to paragraph 19:

4 Affidavit of Admiral NOMURA, exhibit
5 3000, transcript page 26,569.

6 15. As to paragraph 20:

7 Testimony of Admiral NOMURA, transcript
8 pages 26,579-26,581.

9 I would like to suggest that items 30 and 31
10 on the order of proof have been eliminated.

11 Defense documents 2819, 2819-A, 2819-B and
12 2819-C are offered for the purpose of showing exchange
13 of views concerning the appointment of Ambassador OSHIMA
14 before his first tour of duty and the normal manner in
15 which his appointment took place.
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1 ACTING PRESIDENT: The documents will be
2 admitted.

3 CLERK OF THE COURT: Defense document 2819
4 will receive exhibit No. 3523, defense document
5 2819-A will receive exhibit No. 3523-A; defense
6 document 2819-B will receive exhibit No. 3523-B,
7 and defense document 2819-C will receive exhibit
8 No. 3523-C.

9 (Whereupon, the documents above
10 referred to were marked defense exhibit
11 Nos. 3523, 3523-A, 3523-B, and 3523-C,
12 respectively, and received in evidence.)

13 MR. CUNNINGHAM: I now offer to read in
14 evidence exhibit 3523:

15 "September 16, 1938

16 "From: Foreign Minister UGAKI

17 "To: Premier KONOYE

18 "Subject: Proceedings in regard to the
19 Emperor's appointment of Lieutenant General OSHIMA
20 as Japanese Ambassador to Germany.
21

22 "With reference to the matter of appoint-
23 ing Lieutenant General OSHIMA Hiroshi, now serving
24 as a military attache to the Japanese Embassy in
25 Germany, to the post of Japanese Ambassador to
Germany, as already arranged with Your Excellency

1 informally, I rely upon Your Excellency to obtain
2 the Emperor's approval at Your Excellency's earliest
3 convenience so that I would be able to proceed with
4 this matter. I am looking forward to Your Excel-
5 lency's reply.

6 "(signed) Minister

7 " " Vice Minister

8 " " Chief of the Personnel Department

9 "(seal) Administrative Chief

10 - - -

11 "Certificate of Source and Authenticity

12 "I, HAYASHI Kaoru, who occupy the post of
13 Chief of the Archives Section of the Foreign Office,
14 hereby certify that the documents hereto attached,
15 written in Japanese, consisting of 6 pages and con-
16 taining the following letters, are exact and author-
17 ized copies of excerpts from official documents in
18 the custody of the Japanese Government (the Foreign
19 Office).

20 "1. Letter of informal request from Foreign
21 Minister UGAKI addressed to Premier KONOYE, dated
22 September 16, 1938

23 "2. Letter from Premier KONOYE to Foreign
24 Minister UGAKI, dated September 22, 1938

25 "3. Letter of inquiry, dated October 6,

1 1938, from Foreign Minister KONOYE to War Minister
2 ITAGAKI regarding the Emperor's appointment of
3 Lieutenant General OSHIMA as Ambassador

4 "4. JIN O No. 1774, dated October 7, 1938,
5 from War Minister ITAGAKI addressed to Foreign
6 Minister KONOYE in reply to the inquiry regarding
7 the Emperor's appointment of Lieutenant General
8 OSHIMA as Ambassador.

9 "Certified at Tokyo," and so forth.

10 I now offer to read into evidence exhibit
11 3523-A:

12 "From: Premier KONOYE

13 "To: Foreign Minister UGAKI

14 "Your request to take necessary steps in
15 regard to Lieutenant General OSHIMA Hiroshi is
16 hereby acknowledged. I beg to inform you that the
17 Imperial approval has been obtained informally on
18 this 22nd inst."

19 I now offer to read into evidence exhibit
20 3523-B:

21 "October 6, 1938

22 "From: Foreign Minister KONOYE

23 "To: War Minister ITAGAKI

24 "Subject: Inquiry about the Emperor's
25 appointment of Lieutenant General OSHIMA as

1 Japanese Ambassador to Germany

2 "As it is desired to recommend to the
3 Throne the name of Lieutenant General OSHIMA
4 Hiroshi, Junior Fourth Court Rank, 2nd Order of
5 Merit, as Envoy Extraordinary and Ambassador Pleni-
6 potentiary to Germany, I wish to ascertain whether
7 it is objectionable on the part of your Ministry.
8 If not, may I trouble you to send me a copy of his
9 curriculum vitae?

10 "(signed) Vice-Minister

11 "Chief of the Personnel Department

12 "(seal) Administrative Chief"

13 I now offer to read in evidence exhibit
14 3523-C:

15 "October 7, 1938

16 "From: War Minister ITAGAKI, Seishiro

17 "To: Foreign Minister Prince KONOYE Fumimaro

18 "Subject: Reply to inquiry regarding the
19 Emperor's appointment of Lieutenant General OSHIMA
20 as Ambassador
21

22 "With reference to the inquiry in your
23 letter of JIN KIMITSU GO GAI dated October 7th,
24 there is no objection on the part of War Ministry.

25 "Notice: His curriculum vitae is attached
hereto."

1 We offer in evidence the excerpt from the
2 interrogation of Yosuke MATSUOKA for the purpose of
3 showing the lack of participation of Ambassador
4 OSHIMA in the determination of the foreign policy
5 of Japan during the time MATSUOKA occupied the
6 post of Foreign Minister.

7 ACTING PRESIDENT: Mr. Tavenner.

8 MR. TAVENNER: If the Tribunal please, the
9 prosecution objects to the introduction of this
10 excerpt from the interrogation of MATSUOKA. A
11 similar excerpt from the interrogation of MATSUOKA
12 was offered on 17 June 1947 and rejected at record
13 24,570. The matter was fully heard by the Tribunal.
14 It was fully argued, and I assume it is not neces-
15 sary to reargue the same question.

16
17 ACTING PRESIDENT: Personally, I do not
18 remember the real ground for not admitting the
19 document.

20 MR. TAVENNER: The objection was based on
21 the ground that the interrogatories that had been
22 taken of the accused should not be admitted in
23 evidence except as to the accused themselves. That
24 was the ruling of the Tribunal at a very early stage
25 of the prosecution's case. The prosecution was not
entitled to do that under the ruling of the Tribunal.

1 and the position was taken, when the other excerpt
2 was produced, that it applied also to the defense.
3 The prosecution used no part of the interrogation
4 of this accused.

5 The President of the Tribunal, in announce-
6 ing the decision, stated as follows:

7 "We have fully considered that matter, and
8 by a majority we came to the conclusion that the
9 interrogation of any of the accused can be used for
10 or against himself only. That is what it amounts to.
11 Of course, where one of the other accused heard
12 what he said and admitted its truth, it could be
13 used against him, but we know of no such case yet.

14 "MR. COMYNS CARR: MATSUOKA no longer being
15 amongst the accused, I assume the ruling means that
16 his interrogation cannot be used by either side.

17 "THE PRESIDENT: That is the Court's
18 decision, and we will hear no discussion about it."
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ACTING PRESIDENT: Does the fact that

MATSUOKA is dead make any difference?

1 MR. TAVENNER: MATSUOKA was dead at the time
2 of this decision of the Tribunal.

3 MR. CUNNINGHAM: Well, if your Honor please,
4 if Mr. MATSUOKA were alive today I presume he could
5 answer questions that are contained in here, and
6 the mere fact that he has passed away should not
7 deprive us of the valuable use of his words.

8 The second point is that the evidence
9 previously was offered in the general phase of the
10 case and not in behalf of one of the defendants who
11 has benefitted by his statement.

12 The third suggestion is that if the evidence
13 would have been admissible against any of the other
14 accused, certainly it should be admissible in favor
15 of them, and the fact that the accused was not within
16 hearing distance to hear what MATSUOKA said should
17 not determine the probative value of the words of
18 MATSUOKA on that occasion.

19 It would require a mighty strict rule of
20 evidence to preclude evidence of this kind when it
21 is helpful to an accused who is on trial. I feel
22 quite sure that the President of the Tribunal in
23 announcing his decision in that former matter did
24 not contemplate a situation in which the evidence
25

1 could be of use to mitigate or to acquit one of the
2 accused. I argue that this evidence has high pro-
3 bative value. It is a statement made by the superior
4 officer of the accused on trial, and certainly has
5 more bearing than any evidence I could imagine to be in
6 favor of an accused. We have listened to the prosecu-
7 tion's evidence, statements by MATSUOKA which are
8 deemed by the prosecution to be harmful to these
9 accused. We ask that the Court entertain this docu-
10 ment, which is made by MATSUOKA and which is helpful
11 to the accused.
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1 MR. TAVENNER: If the Tribunal please, there
2 was a second ruling by the Tribunal on the same type
3 material, which occurred the day after the ruling that
4 I referred to a moment ago, and which I would like to
5 present to the Tribunal if I am permitted to do so.

6 ACTING PRESIDENT: We will be glad to have it.

7 MR. TAVENNER: On the following day Mr.
8 Cunningham presented a statement made by MATSUOKA in
9 January 1946 for admission in evidence, and in ruling
10 upon it the President of the Tribunal stated, in reject-
11 ing the document, "It is clearly covered by the Court's
12 well-considered decision given yesterday, the decision
13 given after hearing the parties fully."
14

15 MR. CUNNINGHAM: I suggest, your Honor, that
16 that ruling was made in the general phase of the case,
17 and I submit that it was effective in that argument on
18 that day, but in this instance the rule applied there
19 should not apply here. There we were only trying general
20 issues; here we are trying to determine the fate of one
21 of the accused, and I submit that this helps him, and I
22 suggest that it should be accepted for its high probative
23 value.

24 ACTING PRESIDENT: I have a request from one
25 of the Members of the Tribunal for a consideration of
~~this matter in chambers. Mr. Tavenner, would you give~~

1 the page numbers that you referred to, and also the
2 dates?

3 MR. TAVENNER: The first page number is
4 24,570 to 24,572, and the second reference that I made
5 was at page 24,576.

6 ACTING PRESIDENT: Have you anything to take
7 up in five minutes?

8 MR. CUNNINGHAM: I think the next document
9 will be objected to.

10 MR. TAVENNER: Yes, it will be.

11 MR. CUNNINGHAM: We will be in a long session
12 on that, too.

13 ACTING PRESIDENT: We will recess until three
14 o'clock.

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16 (Whereupon, at 1440, a recess was
17 taken until 1515, after which the proceedings
18 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: By a majority the Tribunal
4 adheres to its former decision and sustains the objec-
5 tion.

6 MR. CUNNINGHAM: I now offer in evidence
7 defense document 2854, an excerpt from the official
8 transcript of the trial at Nuernberg, which contains
9 a part of Ribbentrop's testimony in that Tribunal as
10 of March 30, 1946. The parent document is already
11 marked for identification as exhibit 2692. This
12 document is now offered with the part of defense
13 document 1449 which was tendered in the Tri-Partite Pact
14 phase and rejected, transcript pages 24,587-24,600,
15 after a very long argument. The reason why I offer
16 it again is that this document specifically refers
17 to OSHIMA and therefore I think it would be admissible
18 in the individual phase of the case.

19 ACTING PRESIDENT: Mr. Tavenner.

20 MR. TAVENNER: If the Tribunal please, it
21 is true it was rejected before but at one stage of
22 the proceedings the prosecution failed to object to
23 four sentences of this document which were introduced
24 in evidence as exhibit 2692-A, record 23,557, and
25 having failed to object to that and the document

1 having been admitted in part, to that extent we
2 feel that we should not object to the admission of
3 this document now except to the extent of the four
4 sentences already read in evidence, merely for the
5 purpose of not having them read twice. I am making
6 this statement only for the purpose of demonstrating
7 that we are not retreating or in any way abandoning
8 the general objection to the use of this type of
9 testimony.

10 ACTING PRESIDENT: Having been admitted in
11 evidence once, I see no reason why it should not be
12 again as to those four sentences. The document will
13 be admitted; objection overruled.

14 CLERK OF THE COURT: Defense document 2854
15 will receive exhibit No. 3524.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3524 and received in evidence.)

19 MR. CUNNINGHAM (Reading): "Excerpt from
20 exhibit No. 2692, official transcript of the Inter-
21 national Military Tribunal at Nurnberg, Germany, on
22 30 March 1946, (Pages 6814-6816).

23 "Witness: Joachim von Ribbentrop.

24 "Direct Examination by Dr. Horn.

25 "Q Did Japan, before her attack on Pearl

1 Harbor, notify Germany of her intention?

2 "A No, that was not the case. At that
3 time I tried, as far as Japan was concerned, to move
4 her to attack Singapore. A peace with England did not
5 seem possible, and I did not know in a military way
6 which measure would be possible to reach this aim.

7 "The Fuehrer instructed me, at any rate, in
8 a diplomatic way to do everything to reach or bring
9 about a weakening of the position of England in order
10 that the peace might be brought about.

11 "We believed that this could be done best
12 through an attack by Japan on the strong position of
13 England in East Asia. Therefore, I tried to influence
14 Japan to attack Singapore.
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1 "After the outbreak of the German-Russian
2 War, I also tried to have Japan attack Russia, for in
3 such a way I saw a quick ending of the war. Japan,
4 however, did not do that. Rather I should say, she
5 did neither the one thing we wanted nor the other,
6 but she did a third thing. She attacked the United
7 States at Pearl Harbor. This attack was for us a
8 complete surprise. We had considered the possibility
9 that Japan might attack Singapore or perhaps Hong
10 Kong or attack England, but we never considered that
11 she should attack the United States or that was any-
12 thing that we wanted; that is, the possibility of an
13 attack in England, but if that would happen, the
14 United States would intervene. That was the question
15 which we considered often at length but we hoped that
16 this would not happen and that America would not
17 intervene. That attack on Pearl Harbor was told in
18 Berlin -- or rather, I received knowledge of it
19 through the press and then I received Reuter's message
20 from the Japanese Ambassador OSHIWA. All other re-
21 ports or proofs or anything else are completely untrue
22 and I would like to testify to that under my oath.
23 I would like to go further than that and concur and
24 assert that even this attack was a surprise to the
25 Japanese Ambassador -- as he told me, it was a com-

plete surprise to him also."

1 I would like to suggest, your Honor, that
2 there isn't, in my submission, sufficient difference
3 between the document just admitted and the document
4 rejected just prior to this.

5 I go into the supplementary order of proof.

6 In the following series of documents it is
7 suggested that International Law regulates the privi-
8 leges and immunities which follow the official acts of
9 an ambassador. It is contended that the ordinary
10 consequences do not follow his acts but attach only
11 to his office and to his government; that his
12 exemption from personal responsibility is permanent;
13 that his privilege of freedom from trial binds third
14 powers as well as the nation to which he is accredit-
15 ed; that the law is so well established that mere
16 reference here to the general rules is all that will
17 be made. A brief of the cases supporting the theory
18 will be filed with the argument on summation. The
19 following documents are presented only for the purpose
20 of emphasizing the present state of the law.

22 I want to make an additional statement.
23 Before I begin this section of the individual defense,
24 permit me to say that neither the accused nor the
25 Japanese defense counsel for him wish to have an

1 acquittal solely on the claim of ambassadorial im-
2 munity.

3 MR. TAVENNER: If it please the Tribunal,
4 I dislike to interrupt counsel, but this certainly
5 is argument which does not have a place in this
6 phase of the case; and, therefore, I object to it.

7 MR. CUNNINGHAM: I submit, your Honor,
8 that this is a matter of courtesy to the Japanese
9 counsel and to the accused himself, and it should
10 be permitted to go into the record.

11 ACTING PRESIDENT: The proper place for a
12 statement of that kind is in the summation. It can
13 go into the record at that time.

14 MR. CUNNINGHAM: Your Honor, I did want to
15 have . understood, before I presented the evidence,
16 the condition on which it was presented, if I might.

17 ACTING PRESIDENT: You told us that.
18 Objection sustained.
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1 MR. CUNNINGHAM: To corroborate the evidence
2 of the accused OSHIMA in that it was his duty to carry
3 on his relations with the German Foreign Minister and
4 that his acts were recognized in international law as
5 acts of state and in no sense personal, we offer defense
6 document 2728-A, an excerpt from "International Law by
7 Fenwick," second edition. Fenwick is one of America's
8 outstanding scholars of international law and is now
9 legal advisor in our State Department. We offer to
10 read only parts of this excerpt.

11 ACTING PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: If the Tribunal please, the
13 prosecution objects to this document and to each of
14 the next fourteen documents on the present order of
15 proof on the grounds,

16 1. That it is not necessary to prove the
17 principles of international law before this Tribunal
18 as has been repeatedly determined by the Tribunal,
19 record 17,601 to 17,606 and 17,665 to 17,685, and also
20 at 17,688 to 17,639.

21 2. These documents present purely legal argu-
22 ments which are not proper at this stage of the proceed-
23 ings. These excerpts from and citations of authorities
24 if pertinent should be submitted in the final summation
25 as, of course, they will be.

1 It has been almost axiomatic from the very
2 beginning of this trial that legal principles should not
3 be made the subject of evidence but should be alluded
4 to and would be considered by the Tribunal in summation.

5 MR. CUNNINGHAM: Well, your Honor, I shall take
6 up the objections as they are suggested.

7 The first is that the present state of the law
8 is not evidence. It is my submission that the prosecu-
9 tion has made the election as to the manner in which the
10 law of this case shall be provable by offering first
11 the conventions upon which the prosecution rely as
12 part of the law. If it is not necessary in this case
13 to prove the law then all of these conventions and
14 agreements which the prosecution has tendered are super-
15 fluous.

16 The second proposition is that the prosecution
17 has submitted as part of the law of this case a charter,
18 written presumably by the prosecution, which they say
19 states the law of the case, and if the law of this case
20 is not provable as any other fact is provable then the
21 Charter, having been filed as exhibit 9 in this case,
22 is superfluous.

23 My third point is that there being no code of
24 international law in a court hearing a case of first
25 instance on a question of international law must find

1 the law before it can fit the facts to that law. In
2 order for the Court to properly determine what is the
3 law in this case it must analyze four things: first,
4 conventions; second, treaties and agreements; third,
5 the writings of experts and scholars which is part of
6 the evidence just presented here.

7 ACTING PRESIDENT: There is no question but
8 that you have a right to argue the law. The only
9 question is what is the proper time.

10 MR. CUNNINGHAM: That is my next point, your
11 Honor. The fourth thing which it is necessary for
12 the Court to determine before it can find the law is
13 the cases which have been decided already and that is
14 the thing which I propose to prove and to argue upon
15 summation, but it is the state of the law, the actual
16 existence of the law, which is a provable fact as any
17 other fact before an international tribunal, different
18 than an ordinary municipal or national court which has
19 its code and its statutes to guide it, something which
20 this Tribunal does not have and which no international
21 tribunal has had in the past.

22
23 ACTING PRESIDENT: We trust the Tribunal will
24 have all that included in your final summation.

25 By a majority the Tribunal sustains the objec-
tion.

1 MR. CUNNINGHAM: Well, your Honor, I had
2 presumed that I would be permitted to give my final
3 and climactic point before I was cut off.

4 ACTING PRESIDENT: The Tribunal has felt for
5 some time that there has been too lengthy arguments on
6 questions of admission of evidence.

7 MR. CUNNINGHAM: Well, your Honor, I presume that
8 leaves me one of two courses to follow: one, to offer
9 my documents into evidence and have them marked for
10 identification in order that I can make my record of
11 offer of proof.

12 ACTING PRESIDENT: My recollection is that
13 the clerk has a rejected document file which carries
14 the same implications.

15 MR. CUNNINGHAM: Well, then, I presume your
16 ruling just applies to the first document, 2728-A.

17 ACTING PRESIDENT: It applies to all fourteen.
18 You can make your tender. The ruling applies to all
19 fourteen.

20 MR. CUNNINGHAM: Well, your Honor, I can't see
21 how you can reject a document before it is offered.

22 ACTING PRESIDENT: We will put it the other
23 way: The objection will be sustained when the other
24 documents are offered. I thought that you would make
25 your tender of all fourteen at once and let them go

1 on the rejected calendar or whatever they may call it.

2 MR. CUNNINGHAM: Well, I am anxious to save
3 time on the matter. If my offer of proof as written
4 in my supplementary running commentary and order of
5 proof can be transcribed into the record the same as if
6 I had read the matter, I have no complaint about that.
7 Otherwise I will offer the documents in the way in
8 which I have them arranged.

9 MR. TAVENNER: If it please the Tribunal,
10 such a procedure would be just an evasion of the
11 Tribunal's ruling. If a document is not admissible in
12 evidence the comments as to what the document contains
13 is not admissible as part of the transcript. It would
14 seem to me that such a procedure would only be a subter-
15 fuge to state in the record the contents of a document
16 which the Tribunal has ruled is not admissible.

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1 MR. CUNNINGHAM: well, that gets into one
2 of the fundamental questions, your Honor. If there
3 is a review of this trial, if there is a review of
4 this proceedings, the reviewing authority has a
5 right to know what evidence was rejected which was
6 offered in behalf of the accused, and they also have
7 a right to know for what purpose that evidence was
8 offered. And anyone who has practiced law knows that
9 proof and evidence is not to be submitted in summation.

10 ACTING PRESIDENT: If you will read the front
11 page, it is not numbered, of your supplementary or-
12 der of proof for 28 November, which describes the docu-
13 ments, and make a tender of those, that will be suf-
14 ficient.

15 MR. CUNNINGHAM: Well, your Honor, if you
16 were a reviewing authority and would be satisfied
17 with that sort of an offer of proof on the part of
18 a counsel who was presenting evidence in a case, and
19 would consider that the court had no right to know
20 any more than what that page says as to what the ac-
21 cused wanted to present as evidence, then I am per-
22 fectly willing that that shall be accepted. But
23 that certainly would not be the standard I would fol-
24 low.
25

ACTING PRESIDENT: It happens you are not a

1 Member of the Tribunal, and we do not care for any
2 more remarks of that nature.

3 MR. CUNNINGHAM: Well, your Honor, I am an
4 officer of this court, and I must do my duty as I
5 see it.

6 Now, that completes the presentation of the
7 documents and the evidence in the individual case
8 of Ambassador OSHIMA, with the exception of the right
9 to recall the witnesses and to introduce more docu-
10 ments at such time as we make application to the
11 Court in answer to the documents introduced by the
12 cross-examination in surprise.

13 ACTING PRESIDENT: With reference to the
14 reservation made in the last part of your statement,
15 we ruled on that this morning.

16 Do you not care to make a tender of these
17 documents here by document numbers for the record?

18 MR. CUNNINGHAM: Yes, thank you very much.
19 In the discussion I had overlooked the matter.

20 I offer in evidence defense document 2793,
21 the excerpt from the Digest of International Law by
22 Hackworth.

23 ACTING PRESIDENT: Same ruling.

24 MR. CUNNINGHAM: Excerpts from Experts on
25 International Law, 2827-A.

1 Excerpt from American Journal of International
2 Law, 2827-H.

3 Excerpt 2727-B, Feller & Hudson. I might
4 suggest that that is useless, there being no page
5 number or anything that it refers to. The running
6 commentary gives the page and the section and the
7 chapter and so on.

8 Defense document 322, Draft Convention of
9 1932.

10 Defense document 323, Havana Convention.

11 Excerpt 2728-B, excerpt from Feller & Hudson.

12 2713, excerpt from Shirer's Berlin Diary.

13 I might say that that is not an excerpt from an inter-
14 national law authority and should not come under the
15 objection made by Mr. Tavenner. But I am not going to
16 argue that separately.

17 Defense document 2729 concerning Treatment
18 of Diplomats after Last War by Garner.

19 Defense document 2836, Corbett - McLeod's
20 Case.

21 2797, Survival of Immunity by Biggs.

22 2826, Oppenheim - Diplomatic Privileges
23 Generally.

24 2843, Fenwick, excerpt.

25 2803, Department of State Bulletin - Experts

1 on Nurnberg.

2 ACTING PRESIDENT: All these documents are sub-
3 ject to the same ruling, and are rejected.

4 MR. CUNNINGHAM: I would like, if your Honor
5 please, to have tomorrow a reconsideration of the ruling
6 on that question because I do consider it one of the
7 most vital issues involved in this case, and it is
8 one that will have its repercussions, and I feel
9 most serious that the Court has not given this matter
10 serious enough consideration at this time.

11 ACTING PRESIDENT: Mr. Tavenner.

12 MR. TAVENNER: If the Tribunal please, there
13 is one matter that counsel apparently has overlooked,
14 it is the redirect interrogatory of Mr. Eugene Ott
15 which was to be processed and served. I understand
16 the clerk has the copies but they have not been dis-
17 tributed yet. That is the only matter that I know
18 of that has not been disposed of in connection with
19 this phase.
20

21 ACTING PRESIDENT: We can take that up the
22 first thing in the morning.

23 We will adjourn until 9:30 tomorrow morning.

24 (Whereupon, at 1600, an adjourn-
25 ment was taken until Wednesday, 3 December,
1947, at 0930.)

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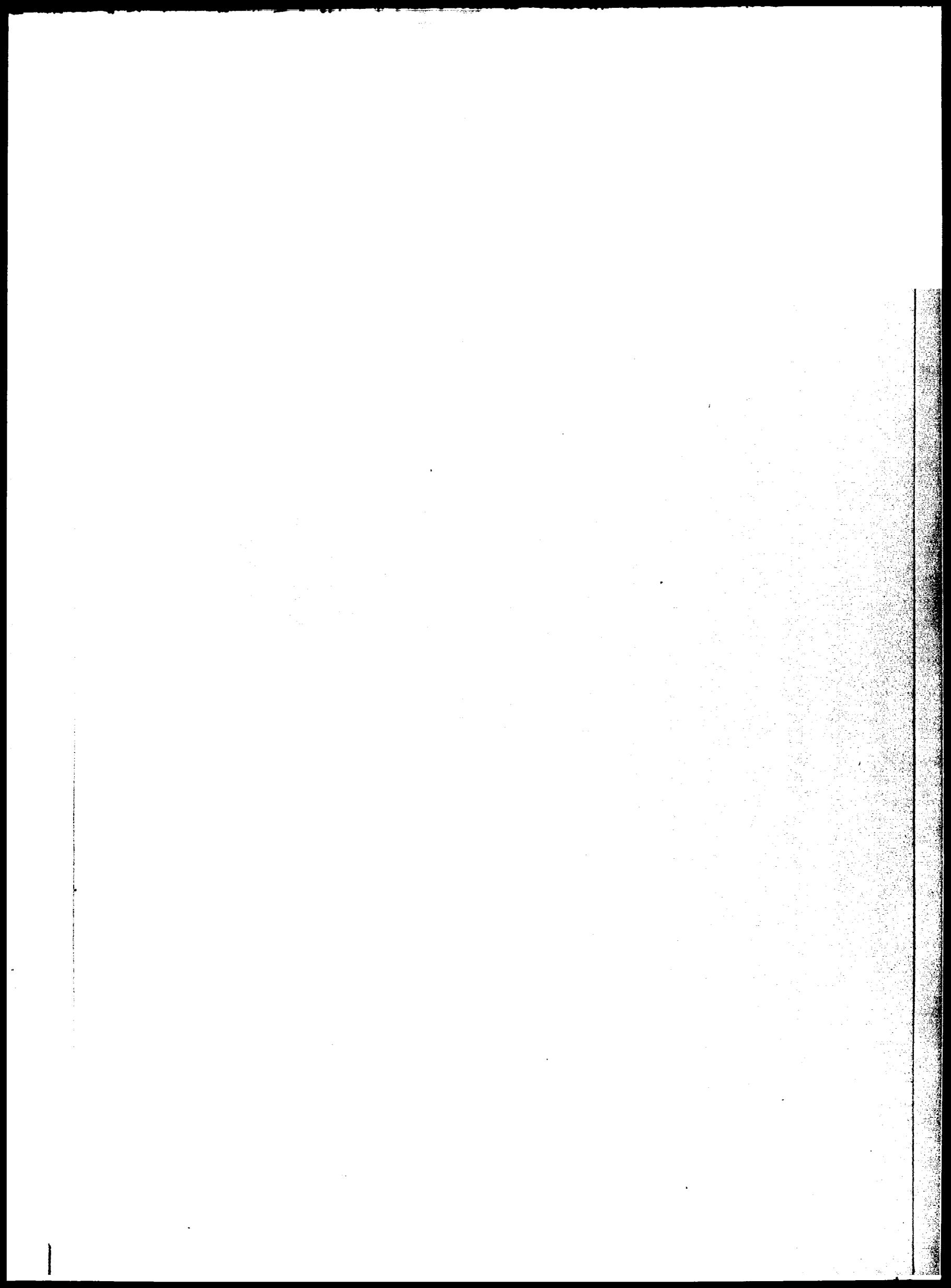
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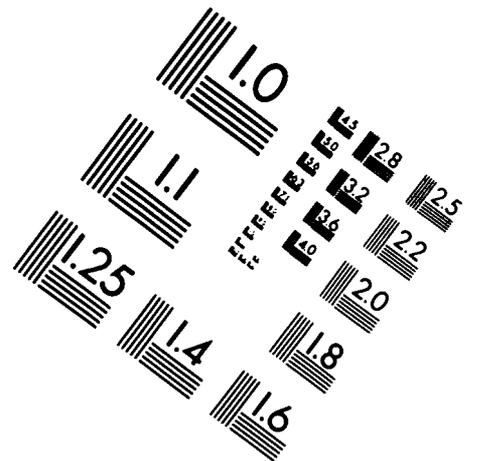
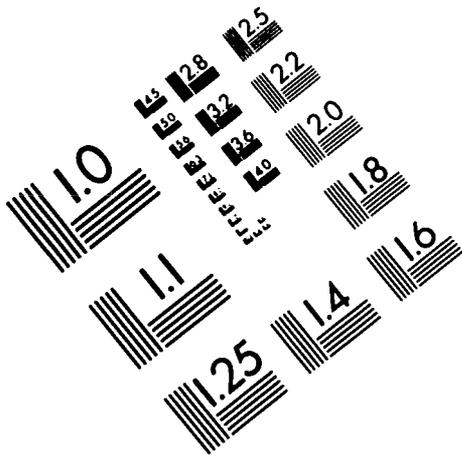
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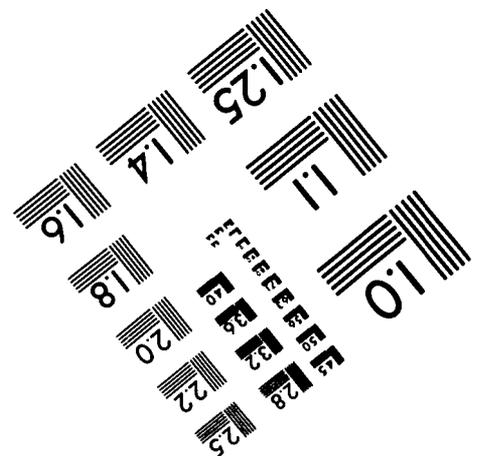
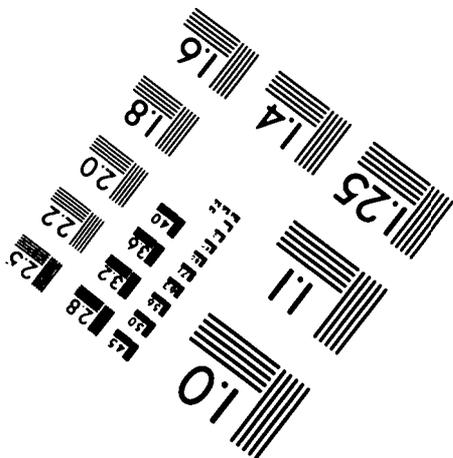
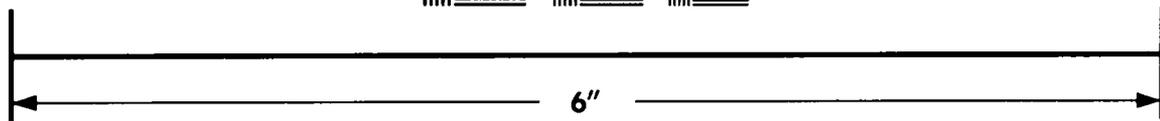
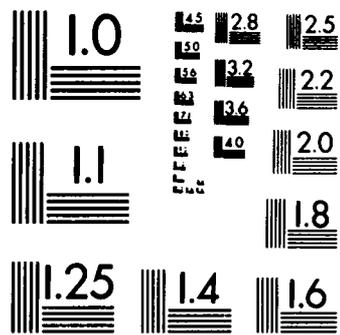
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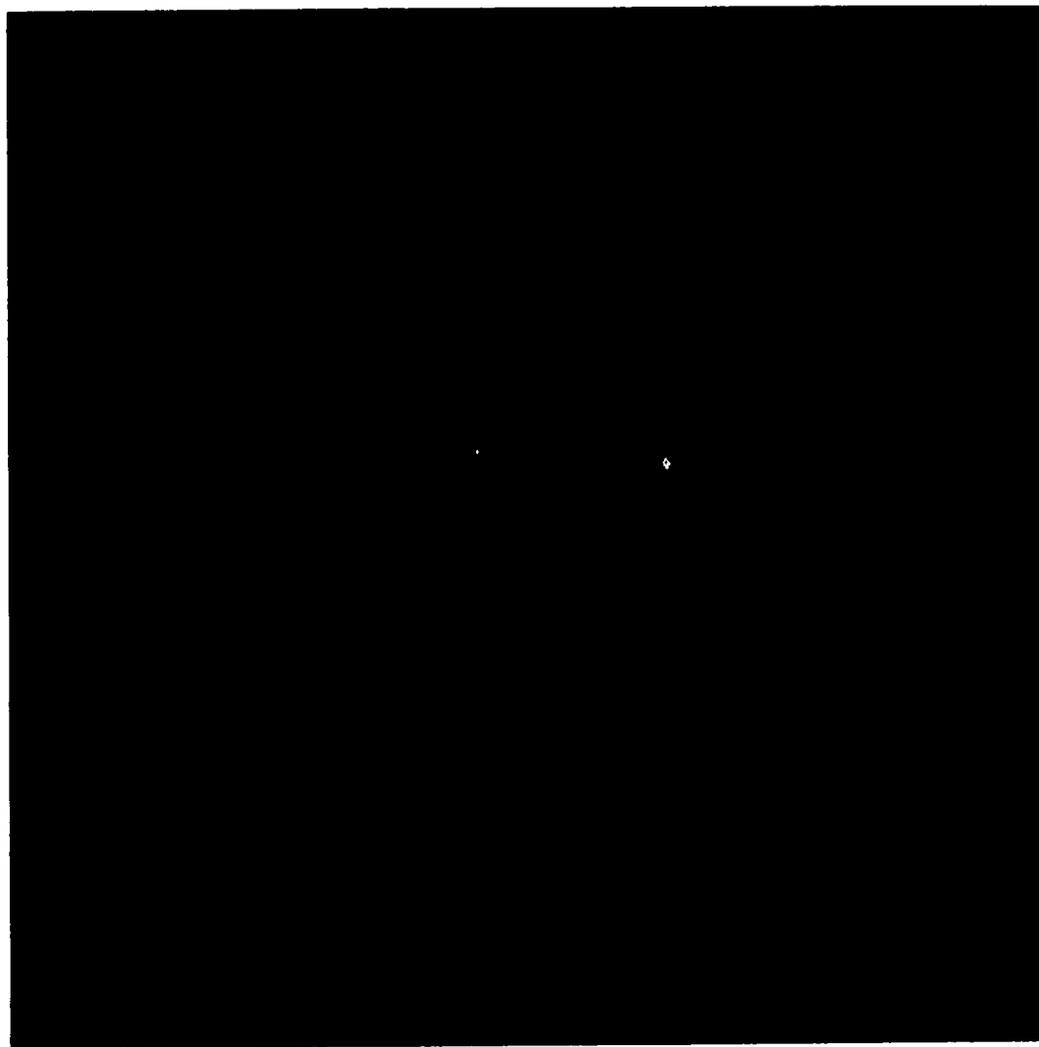




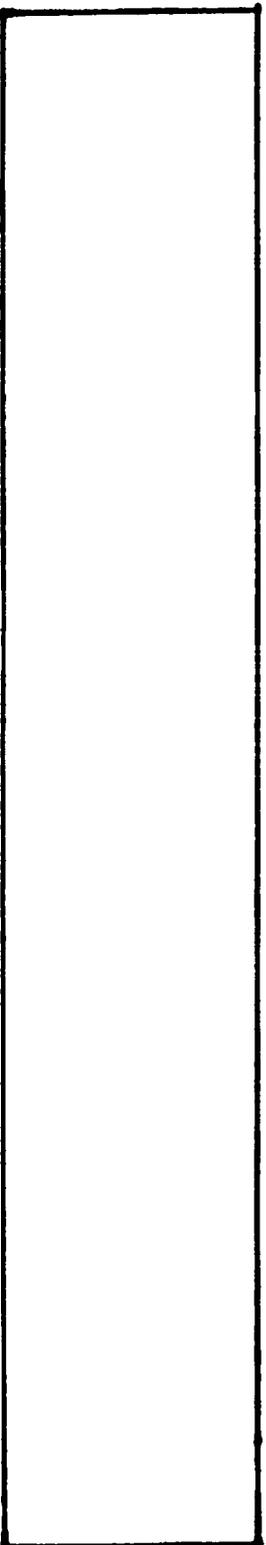
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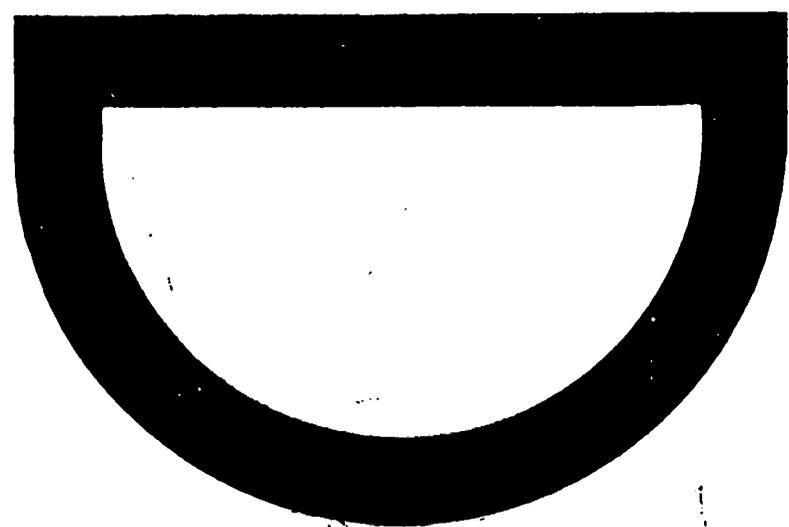
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